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Humanitarian Military Intervention: A Failed Paradigm

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by

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To Ahmet and Nidžara Rahmanović, Majda, and Sufian.

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ABSTRACT

Since the end of the Cold War, traditional justifications for war have diminished in
relevance and importance, while the use of Humanitarian Military Interventions (HMI) has
proliferated, to the point that formerly traditional wars – e.g. Afghanistan and Iraq invasions –
have become retroactively redefined as HMIs. While HMI suffers from a number of problems,
from international law to historical track record, its proponents have managed to turn aside all
arguments by claiming they represent either statistical outliers, improper implementation, or at
best indicate a need for a certain degree of fine-tuning. Crucially, the validity of the HMI
practice is never brought into question. In order to attempt to break this dialectic stalemate, this
dissertation recasts HMI as a Kuhnian paradigm. Doing so provides for a better understanding of
HMI as a holistic *Weltanschauung,* and allows the problems of HMI to be understood as
anomalies. Unlike arguments, anomalies need not engage with every discrete position held by
the paradigm. Instead, they serve as a direct demonstration of the untenability of a position, as
evidenced by systemic failure to produce the desired results. Consequently, the paradigm
approach allows for a binary resolution to the problems of HMI: either the anomalies can be
explained by the paradigm, or the paradigm has failed. The present analysis begins with an
examination of paradigms and their structures, and then follows the history and context of HMI
is considered from a philosophical and historical perspectives. Then, the structure of HMI as a
paradigm is unpacked, with the attendant ends, means, justifications, and implications. Finally,

four categories of HMI anomalies are presented, leading to the conclusion that the HMI

paradigm is a failed one.

CHAPTER I:

INTRODUCTION

Humanitarian military intervention (HMI) is the ideology and methodology of using

military force against a state, as a result of its domestic policies that are considered violations of

human rights.[1] Although the earliest claims of modern HMI can be found in the 19th century, it

has become a common justification for war (at least as a secondary one) since the fall of the

Soviet Union. The ubiquity of justifying military action on the basis of human rights violations

has even gone so far as to be applied to conflicts *post facto*, as in the cases of the US invasions in

Afghanistan and Iraq.

The goals of HMI are relatively simple: to stop and/or prevent human rights violations,

and restore a meaningful degree of stability to the state and its people. Over the past two and a

half decades, the increasing power of the media along with social networks, has achieved an

almost-instantaneous coverage of such violations, and has made the whole world a witness to the

events firsthand. Such publicity results in massive public outrage, followed by calls for

immediate intervention. Examples of such public pressure in the last decade include the

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[1] There is no single uniform terminology used for the HMI concept presented here. Occasionally, authors use "intervention," or "humanitarian intervention," or "preemptive intervention," or the rather convoluted "military intervention for human protection purposes," etc. However, all such terms have a degree of ambiguity, which then requires additional effort to qualify the specific meaning intended. For that reason, the present analysis will use the term Humanitarian Military Intervention (HMI) - primarily in acronym form - in order to provide a clear and unambiguous idea, as defined in the following pages.

intervention in Libya, anti-Assad intervention in Syria, and the anti-ISIS interventions in Syria and Iraq, among others.[2]

However, HMI is problematic in terms of international law, its theoretical and practical methodology, and the historical track record of HMI attempts. Given the decrease in traditional war justifications and the increase of HMI-based justifications for war over the past several decades, the importance of addressing any HMI problems cannot be understated. Problems raised against HMI are generally taken by its proponents as an indication of a need for better understanding of the social, political, and military contexts in which the intervention takes place. They argue that any problems should be understood as resulting from faulty implementation; while the validity of HMI itself remains unquestioned. To that end, numerous state and military institutions, as well as philosophers and political scientists, have worked to provide technical solutions, such as the threshold for interventions, benchmarks of success, etc.

Contrary to the pro-interventionist arguments, the aim of this analysis is to demonstrate that the HMI paradigm[3] is a failed one – in a Kuhnian sense – primarily due to its demonstrative history of catastrophic failure and the incompatibility of its ends and means. The goal is not to merely point out specific problems with HMI – a task that many others have done fairly well – but to demonstrate that these problems are systemic and structural in nature, resisting all resolutions within the HMI paradigm, and necessitating its complete abandonment. This analysis does not seek to provide an alternative to HMI. Instead, by demonstrating the failure of HMI as a

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[2] The US involvement against ISIS in Iraq generally falls under the traditional war justification of aiding an ally against a war of aggression. However, the US involvement in Syria is an HMI, insofar as it does not have the support of the legitimate government of Syria, and is a military action in an effort to stop human rights violations.
[3] Though the concept of paradigms will be discussed in greater detail below, the simple definition of a paradigm is summarized in the OED as, "A worldview underlying the theories and methodology of a particular scientific subject." For Kuhn, and the purpose of this analysis, the paradigm also plays a primary role in constituting the worldview, theory, and methodology into a single unified whole.

paradigm, the analysis hopes to provide a new vista from which the problems of international response to domestic human rights violations by state actors can be considered. Although the task of formulating a new paradigm falls outside the scope of the present analysis, the assessment of the current failures provided by the analysis may help to provide a sort of groundwork basis for such a project.

The following analysis is composed of five chapters, leading to the noted conclusion. Chapter II will establish the basis for the Kuhnian paradigm-based analysis, as opposed to the argument-based work done by other authors. This chapter will serve as a guide through the highlights of Kuhn's *The Structure of Scientific Revolutions*, and draw strong parallels with the present project. The systematic analysis, exploration of the contextual developments, assimilation of new data, and understanding of how anomalous information function within Kuhn's paradigm system, will provide a justification for its present use and justify the ultimate rejection of HMI, rather than further pedantic revisions of cosmetic points.

Chapter III will present a brief history of HMI and its pertinent developments in the international arena over the past several centuries. In order to make this wealth of data manageable, this chapter is broken into two subsections. First, the theoretical background of HMI is explored in the philosophies of Locke, Kant, and Mill. Second, the modern history of HMI and international law will be analyzed.

In Chapter IV, the HMI paradigm structure will be explored as a holistic *Weltanschauung*. First, the paradigm axioms and their relations will be considered. Second, building on the axiomatic basis, the theoretical framework of the paradigm will be revealed, as well as a number of its crucial implications. Third, the theoretical framework will provide the

methodology and application of the paradigm in practice. This shift from theoretical to practical aspects of the paradigm will also provide the goals and justifications for the use of war as a response to domestic human rights violations of foreign states. Finally, the preceding elements will be used to create a paradigm vision for the world, an ideal that the paradigm both assumes and seeks to create.

In Chapter V, the analysis turns to anomalies, and demonstrates that a number of them result in the applied use of HMI. Ultimately, the anomalies negate every goal and justification of the HMI paradigm, and point to the fact that the use of HMI actually exacerbates every problem it had aimed to solve. With the preponderance of evidence against its functionality, the analysis concludes that the HMI paradigm is in a state of Kuhnian "crisis."

Chapter VI will provide a summary of the analysis. On the basis of theory, practice, and history of HMI, coupled with the noted anomalies, it concludes that the HMI should be considered a failed paradigm. The analysis will conclude with a brief consideration of differences between the Kuhnian philosophy of science and the present ethics of war, and consequently an argument for why we can't wait for a new paradigm of human rights protection, before discarding the present one.

CHAPTER II:

THINKING IN PARADIGMS

The first question that must be answered, in order for this analysis to succeed, is whether the use of Kuhnian paradigm system (as derived from Kuhn's *The Structure of Scientific Revolutions*) provides a meaningful contribution to the analysis, and whether this contribution justifies the added complexity introduced by attempting to bring in an argument created for the study of historical development of the sciences.

The problem in philosophical discourse is that, quite often, it devolves into a seemingly never-ending and inconclusive series of ever more refined and redefined arguments for both sides. In this process, both sides tend towards logical fallacies, such as moving the goalposts. It is unsurprising, then, that philosophy acts as something of a hoarder, and rarely is an argument truly rejected and abandoned. Given the ramifications of applied ethics, and particularly ethics of war, theories and application carry rather significant consequences in the real world. Potential damage from a wrong decision is often permanent: the cost of errors paid in failed states and blood – most often civilian. Thus, the approach of this analysis, if it is to be ethical, must seek a resolution; not merely another round of patchwork corrections. To that end, the use of Kuhn's paradigm system may be rather useful.

While other authors commonly discuss and attack particular HMI failures, such critiques can often be addressed by suggesting some sort of additional institutional guidelines or caveats

regarding HMI. The problem posed by this type of exchange is that the debate goes on with only the most minute adjustments of the positions, and hence HMI continues to be seen as a valid and functional system, whose problems are often answered with a dismissive, "no system is perfect." However, if the problems of HMI can be recast as systemic and integral flaws of HMI as a holistic system, rather than discrete arguments, then the response must either entirely disprove this much stronger systemic attack, or capitulate.

Kuhn's concept of paradigms provides such a holistic system, and therefore may help in providing some sort of resolution to the problems of HMI. Kuhn developed the idea of paradigms as a way to systemically capture the process of creation, maintenance, failure, and collapse and replacement of complex scientific systems. His approach seems to provide a holistic integration of underlying axiomatic assumptions, theory, methodology, shared in-field ideology, and acceptable fields of inquiry and solutions for a science. This *Weltanschauung* functions as an independent whole and becomes a self-stabilizing system, highly resistant to change.

The resilience of paradigms is based on their functionality, rather than strength of any particular argument employed. Thus, even should an argument be found lacking, the paradigm as a whole is generally unaffected. However, as Kuhn notes, the weakness of paradigms is found in the fact that their great problem-solving power inevitably creates anomalous results. These anomalies are nothing more than demonstrative failures of the paradigm, which cannot be resolved within the paradigm, for example by revising a particular element of the paradigm, and thus serve to undermine the paradigm as a whole. A preponderance of anomalies, or their centrality to the paradigm, or their persistence over long periods of time and range of attempted solutions, can lead a paradigm into a crisis, and ultimately signal that the paradigm is a failure – thus necessitating a search for a new paradigm.

Of course, there are also problems with treating HMI as a paradigm. First and foremost, the Kuhnian paradigm is not a clear and concise concept. In fact, Masterman notes 21 separate definitions of paradigms offered by Kuhn, which she manages to categorize into three distinct notions.[4] Thus, the above presentation is one of many interpretations of the paradigm concept. Second, having been developed for philosophy of science, the use of paradigms for the examination of HMI is inherently an imperfect fit. Third, there are other concepts that capture similar ideas – so that the use of the concept of paradigm requires further justification. Fourth, as noted, the present analysis does not offer a replacement for the HMI paradigm, which is necessary if the existing one is to be retired.

The plurality of paradigm definitions, with Masterman's divisions of meaning, nevertheless suggests that there are sufficient grounds for using the term. She begins with classifying the three types of paradigm definitions as metaphysical (set of beliefs, organizing principle governing perception itself etc.), sociological (like a set of political institutions, recognized/concrete scientific achievement), and artefactual (supplying tools, instrumentation itself, etc.).[5] While the three categories may be distinct, an argument can be made for their unification as different parts of the paradigm structure. Thus, the metaphysical groundwork provides a series of beliefs and interpretations about the world; the sociological aspect expands and instils these ideas as governing principles of theory, based upon concrete and recognized achievements; the artefacts represent the applied methodology of the paradigm, complete with norms, limits, and a manual of instructions for use and interpretation. Viewed in this light, the paradigm approach to HMI seems to consider and incorporate all the relevant issues into a single

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[4] Masterman, Margaret. "The Nature of a Paradigm." 59-89. In *Criticism and the Growth of Knowledge*. Ed. Imre Lakatos and Alan Muskgrave. London: Cambridge University Press, 1970. Pp. 61-65.
[5] *Ibid.* Pg. 65.

holistic system. The mere presence of additional interpretations of paradigms is not enough to disqualify the use for present purposes. – so long as the interpretation is valid,

There is no way of successfully avoiding the criticism that the concept of paradigm is an imperfect fit to the applied ethics of war, – though it may be muted. Though Kuhn's work had focused on philosophy of science, the paradigm concept can be used by HMI as an interpretive model. Following Hesse, the obvious differences with HMI would be negative analogies, while the general system structure would be a positive analogy. The examination of HMI as a paradigm, and its ability to address a host of anomalies would be the neutral analogy to be classified as either positive or negative – which, according to Hesse, is how the generation of new and novel ideas from models occurs.[6] Thus, though an imperfect fit, the use of paradigm as a model of HMI may provide a basis for the resolution of the problems faced by HMI.

The use of paradigms must also be further justified, in light of competing concepts and terminology. The justification for the selection of paradigm as the key term, comes from the fact that paradigms contain all the relevant concepts found elsewhere – though the same cannot be said of other terms. One possibility might be the concept of ethos. As an example, Merton identifies pressures to conform to ideological and methodological systems as idea as the "ethos of science:"

> The ethos of science refers to an emotionally toned complex of rules, prescriptions, mores, beliefs, values, and presumptions which are held to be binding upon the scientist. Some phases of this complex may be methodologically desirable, but observance of the rules is not dictated solely by methodological considerations. This ethos, as social codes generally, is sustained by the sentiments of those to whom the it applies. Transgression is curbed by internalized prohibition and by disapproving emotional reactions which are mobilized by the supporters of the ethos. Once given an effective ethos of this type, resentment, scorn, and other attitudes of antipathy operate almost automatically to stabilize the existing structure.[7]

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[6] Hesse, Mary B. "Models and Analogy in Science" In *Encyclopedia of Philosophy*. Vol.5. Ed. Paul Edwards. New York: MacMillan & Free Press, New York, 1972. Pg. 356.

[7] Merton, R. K. "Civilization and Culture." In *Sociology and Social Research*. 21 (1936). 103-13.

Similarly, Kuhn argues that failure to adhere to the paradigm-based ideology and methodology results in professional ostracizing of the practitioner, because such failure to conform removes the person from the study of that particular science, by definition of its limits.[8] The notion of social pressure to conform to the paradigm is important to understanding the present use of paradigms. Participation in the ethos, or paradigm, provides one with a series of limits in the ideological and methodological sense. Transgressing these limits places one beyond the pale of the field in question, and results in the automatic ostracizing – thereby enforcing in-field conformity and stabilizing the field against upheavals. However, while Merton's "ethos of science" provides two points of consideration (underlying beliefs and enforcement of conformity as a stabilizing influence), Kuhn's paradigm goes much further, and includes the process by which scientific revolutions – accompanied by rejection of much of the previous belief structure – are achieved. More generally, even where other terms might be more apt for some particular aspect of HMI, none of them capture the scope of benefits provided by the use of paradigms. This also allows for the use of a single term, rather than attempting to integrate several different ones, proposed by different authors, for different purposes, in hopes of achieving a slightly better result.

Finally, there is the issue of failing to produce a replacement paradigm, while calling for the abandonment of the existing one. If the goal of this analysis was to present a succession of paradigms, by demonstration of the failure of one and paradigm shift to another, then the objection would stand. Yet, such a position would require that the existing paradigm be the only option – which is not the case. There are at least two other competing paradigms, which stand in opposition to HMI: realism and pacifism. On both accounts, genocide is not a desirable state of

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[8] Kuhn, Thomas S. *The Structure of Scientific Revolutions*. Chicago: The University of Chicago Press, 1962. Pg. 19.

affairs. However, on both these accounts humanitarian military intervention against a sovereign state, based on the morality of their domestic policies, is rejected. As a result, one can abandon the HMI paradigm without providing a new system, because alternative paradigms already exist. Even if the choice was solely between realism and pacifism, we would not be bereft of a means to respond: the two systems both provide an integrated moral and factually grounded belief system allowing gross human rights violations to be evaluated and for a course of action or inaction to be justified.

The utility of the Kuhnian paradigm approach stems from its systemic approach to creation, sustainability, and destruction of complex systems. It applies a critical analysis to the nature of these systems, and seeks to demonstrate that paradigm shifts (radical changes in ideology and methodology found in scientific revolutions) arise out of systemic and irreconcilable flaws of scientific paradigms. Moreover, new paradigms require completely different ideologies and methodologies – incommensurable with their predecessors. For the analysis, this means that, whereas particular attacks on particular HMI policies have resulted in continuous dialectic exchange between the two sides, the argument for systemic and integral failure of the HMI system as a paradigm seeks to force a binary resolution: either the sum total of HMI problems can be explained away, or the HMI paradigm must be abandoned. Regardless of the outcome, the ethical position regarding HMI benefits from the forced clarification.

With the theoretical utility of Kuhn's paradigms established, the structure of paradigms can now be examined. This examination will allow for a later categorization of HMI as a paradigm, and the characterization of paradigm failure. First, however, a word regarding Kuhn's work and its present use is necessary.

Kuhn's *The Structure of Scientific Revolutions* (1964) argued against the traditional view of science as a historical linear progression. Instead, it posited a conception of science whereby the entire theoretical structure and methodology of science is understood holistically, and always as a part of its broader context of science and society. It undermined the traditional view of science as a linear development, supposedly building directly on the previous sciences and demonstrating some sort of teleological progress.

> The more they study, say, Aristotelian dynamics, phlogistic chemistry, or caloric thermodynamics, the more certain they feel that those once current views of nature were, as a whole, neither less scientific nor more the product of human idiosyncrasy than those current today. If these out-of-date beliefs are to be called myths, then myths can be produced by the same sorts of methods and held for the same sorts of reasons that now lead to scientific knowledge. If, on the other hand, they are to be called science, then science has included bodies of belief quite incompatible with the ones we hold today.[9]

According to Kuhn, science operates in four phases, with a potential fifth phase signifying a shift from an old, existing paradigm, to a new one. The term *paradigm* itself can be understood as a combination of theory and application of a particular science, with the full panoply of technology, procedure, data, and language (jargon) legitimized by the paradigm. The paradigm is based on axiomatic premises and the *Weltanschauung* scope of the paradigm – with the core axiom being that the paradigm is true. E.g. the geocentrism of Ptolemy was an astronomical and cosmological paradigm, with both predictive teachings and a specific framing of the problem of planetary motion.

The first phase in the paradigm system is paradigm development, and takes place at a time when a phenomenon in question – e.g. electricity – has not yet been explained in a way that creates a consensus in the scientific community. In this period, various groups of thinkers struggle to create a paradigm from scratch (nothing about the nature of the phenomena is yet

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[9] *Ibid.* Pg. 2

considered a given), in a way that answers questions that each group finds crucial in regards to the phenomena. These explanatorily competing groups also compete for followers. Ultimately, the group with the most followers wins, and their theory becomes a shared scientific paradigm. The other groups can either defect to the winner, or be professionally ostracized.[10]

The second phase takes place within an established paradigm, called "normal science." The "normal" stage of any science is where "science is what scientists do." Once the pre-paradigm chaos has been formed into a coherent paradigm, science becomes an activity of "puzzle-solving." This phase deals with systematic understanding of the phenomena within the framework of acceptable methodologies and rules and laws, which are considered as given by the paradigm. The paradigm ideology and methodology provide puzzles or problems for scientists to solve, provide them with the toolset acceptable for puzzle-solving, and demand answers in a particular, paradigm-approved form – meaning that the methodology of the solution, as well as its results, must conform to the paradigm.[11]

The third phase is marked by the rise of anomalies. An anomaly, in the Kuhnian system, is a result of "normal science" puzzle-solving whose results are incongruous with the paradigm. Anomalies represent a glitch in the system and are commonly dismissed as being statistical outliers, products of bad sampling, or improperly used equipment. Yet some anomalies persist. Those that cannot be explained away are generally set aside as problems for later consideration – once technology improves. Others require more immediate attention and, as a result, force some

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[10] *Ibid.* Pp. 18-19.
[11] *Ibid.* Pp. 37-40.

kind of a paradigm adjustment to account for the anomaly that cannot be dismissed.[12] The

present analysis will focus on a number of such anomalies in the HMI paradigm.

The fourth phase is the state of crisis, and is crucial for the success of the present

analysis. A crisis is the result of mounting, unresolved anomalies within a paradigm. These

anomalies are generally central to the paradigm, persist over a long period of time, must resist a

range of solution attempts, and must belie the ideological and methodological basis of the

paradigm.[13] A crisis is accompanied by several reactions in the field. First, there is the doubling-

down on paradigm claims – i.e. a frantic search for a means to guide the paradigm back to a state

of normal science, and refusal to admit paradigm failure.[14] A second reaction to the crisis is the

loosening of paradigm framework, so as to allow a wider range of possible methodologies and

solutions to save the paradigm, by explaining away the anomalies. Scientifically, this has often

resulted in new and innovative steps in various sciences, regardless of whether the paradigm was

ultimately preserved or not. As such, the stubborn loyalty to paradigms in many ways represents

the best of science. However, once a paradigm reaches the crisis stage, it cannot escape intact.

The frantic efforts of scientists operating with relaxed restrictions means that even the

occasionally surviving paradigm, though still adhering to crucial points of paradigm ideology, is

greatly altered.[15]

Phase five represents the final, though not necessarily mandatory, phase of the Kuhnian

paradigm process. If the crisis leads to the collapse of an existing paradigm, a new paradigm

must be found, and a paradigm shift must occur. Once the shift is complete, the new paradigm

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[12] *Ibid.* Pp. 66-7.
[13] *Ibid*. Pp. 67-8.
[14] *Ibid*. Pg. 82-4
[15] *Ibid.* Pg. 83.

becomes the new normal science, and the process starts anew. There are several points to be made regarding this step. First, the Kuhnian failure of a paradigm does not lead to its rejection until a new paradigm is found to replace it. That is, the science of a failed paradigm limps along, fully aware of its own inadequacies, until it can locate a replacement – and then finally die. For Kuhn, this stage is a necessary one, as it is only the failed science that can discover its own replacement. Thus, to abandon a paradigm without shifting to a new one is to give up on that entire scientific field in perpetuity.[16] Second, although the new paradigm will draw on the technology and language of the old one, the two are incommensurable – to wit, they cannot communicate in any meaningful manner, because the very nature of reality is understood in radically different ways. This outcome is the result of the axiomatic nature of paradigm *Weltanschauung*, where the new paradigm with new axioms creates an understanding of a world radically different from its predecessor. These two factors will play an important role in later HMI paradigm considerations.

While Kuhn does not elaborate on the internal structure of paradigms, there appears to be a four-part structure common to all paradigms. First, there is the axiomatic superstructure; a series of starting assumptions basic to the paradigm, which form the core of what the paradigm is and can become. Second, there is the broader, theoretical aspect of the paradigm, derived from the implications and relations of the axioms. Third, the methodology of the paradigm is derived from the theory, and relies on the assigned values and meanings supplied by the theory in order to engage in predictive and puzzle-solving activities. Finally, the three parts form a unified vision of the world, which represents the *Weltanschauung* of the paradigm. Viewed this way, a paradigm has two internal and two external elements. The internal (theoretical) elements are a

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[16] *Ibid.* Pp.78-9.

matter of creating and maintaining paradigm-internal coherence and consistency of ideas. The external (applied) elements are a matter of projecting the paradigm theory onto the world, in terms of puzzle-solving, predictions, and interpretation of data, in a way that maintains consistency and coherence between the applied and theoretical elements of the paradigm.

Paradigms are especially resilient and robust, in large part owing to their holistic *Weltanschauung*-like character. As a holistic position, the paradigm is not an argument about how the world is or how it ought to be, but is instead a declaration about the nature of the world that functions as an axiom or an article of faith, and axioms are not susceptible to argument. Kant famously demonstrates the inability to prove or disprove such axioms in his three antinomies;[17] Al-Ghazali demonstrates that the validity of reason itself cannot be justified and must be taken as axiomatic;[18] and Asimov succinctly summarizes this issue as, "You can prove anything you want by coldly logical reason – if you pick the proper postulates… [but] postulates are based on assumption and adhered to by faith. Nothing in the Universe can shake them."[19]

As far as the incommensurability between paradigms is concerned, it would suggest that any possible replacement for HMI (or even a situation in which the current paradigm is rejected without replacement) will create a moral position which is incommensurate with the current HMI paradigm and cannot be a simple revision of the existing ideas. That is to say, the new paradigm, when it comes, will have to produce a radically different *Weltanschauung*, with radically different theoretical and conceptual structure and methodology. We can infer this from the fact

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[17] Kant, Immanuel. *Critique of Pure Reason*. Tr. Norman Kemp Smith. New York: St Martin's Press, 1965. Pp.396-421.
[18] Al Ghazali, Muhammad. *Munkidh min al-Dalal (Deliverance from Error)*. *In The Faith and Practice of Al-Ghazali* by Montgomery Watt. Tr. Montgomery Watt. London: George Allen and Unwin Ltd., 1951. Pp. 24-6
[19] Asimov, Isaac. "Reason." In *I Robot*. New York: Spectra, 1991. Pg. 73.

that previous moral systems – writ large in the international sphere – were themselves radical departures from their own predecessors, as was the idea of modern HMI.

Kuhn's argument about the non-linear character of this kind of development is also important, because it implies that the paradigm shift requires a radical rejection of the previous system. So long as our notion of progress is confined to linear models, the next step of a system must be based on the preceding one. Thus, the next step in HMI would have to build on the existing one, and make most – if not all – of its theoretical assumptions, including the validity of the HMI paradigm as a whole. By allowing (or rather mandating) a radical rejection of a system, the next step in the process is no longer tethered to the old ideas and assumptions, but can develop in entirely new directions – including those that would have been contradictory in the old paradigm.

The axiomatic basis of paradigms means that the starting premise includes the idea that the paradigm is true. Consequently, every argument that challenges the veracity of the paradigm must be rejected out of hand. This approach allows paradigms to carry on in the face of overwhelming anomalous results, sometimes for centuries (as in the case of Ptolemaic cosmology, whose every attempt to square the theory of planetary motion with observable results failed).[20] With this understanding, the question becomes "how are paradigms replaced?"

There are two ways in which paradigms fail: internal and external incoherence. Internal incoherence is the result of multiple paradigm axioms being in direct contradiction to each other. Usually, such contradictions develop only after the seemingly compatible initial axiomatic

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[20] Kuhn, Thomas S. *The Structure of Scientific Revolutions*. Pg. 68.
Kuhn notes that, "With respect to both planetary position and to precession of the equinoxes, predictions made by Ptolemy's system never quite conformed with the best available observations"

postulates are developed further by normal science, at which point their implications become wholly incompatible with each other. This requires the rejection of one or more axioms – which is anathema to paradigms. Still, a mere contradiction is usually not enough to collapse a paradigm, and it carries on with cognitive dissonance. External incoherence, on the other hand, results from the externally predictive aspects of the paradigm failing to deliver expected results; i.e. when puzzle-solving consistently returns contradictory and anomalous results. This will be the focus of the present analysis.

While the paradigm continues on, on the assumption of finding resolutions through in-paradigm solutions, the persistence and centrality of such anomalies leads the non-adherents of the paradigm to view the anomalies as a crisis; an indication that the paradigm has failed. For Kuhn, the non-adherents are usually represented by the new generation of scientists and thinkers, that have not yet become fully vested in the success of the extant paradigm, and whose efforts are primarily oriented towards puzzle-solving, not paradigm adherence. The process of dethroning a paradigm does not necessitate the total rejection of the extant paradigm by all. In fact, Kuhn argues that often, the only way to fully shift to the new paradigm, is by waiting for the old guard to die off.[21] What is necessary is that the new proposed paradigm can solve not only the problems already addressed by the old paradigm, but also integrate and solve the noted anomalies.[22] So long as a critical mass of people accept the new paradigm proposal (with the acceptance hinging on emotional, non-rational grounds – since the old and new paradigms are

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[21] *Ibid.* Pg. 151.
[22] *Ibid.* Pp.153-4.

adhered to by a matter of faith),[23] the old paradigm is declared as failed, and the new paradigm takes its place.

Here, the present analysis has an advantage. Given the awareness of paradigms and their structure, the necessary demonstration is easier to make. With the ability to step back and recognize paradigms for what they are, and to acknowledge the fact that all paradigms have declared themselves as true, yet history is strewn with the corpses of failed ones, the demonstration does not need to argue against the adherents of the HMI paradigm, so much as argue that paradigms have historically failed under certain circumstances, and those circumstances are present in regards to the HMI paradigm. This ability to step back and analyze the system, as a system, is a crucial benefit of the Kuhnian paradigm approach.

There is a possible alternate position to be taken if the paradigm is found to be a failure by its incoherent relations. The alternate position is the insistence on the functionality of HMI, by arguing instead for the failure of international law. While proponents of HMI often argue strongly for the rejection of the current system of international law as a means of justifying the HMI paradigm, their procedure is ill conceived and generally reduces to question-begging – with the functionality of HMI taken as a starting point, and working backwards. That is to say, this position would take the truth of the HMI paradigm as a given, and based on that assumption would proceed to alter all other systems of international law and relations, interstate and intrastate structures, etc. until the extant realities of the world were forced into a shape that was in line with the paradigm.

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[23] *Ibid.* Pg.158.

However, the validity of international law and functionality of the HMI paradigm are two entirely different issues. Even if the failure of international law is accepted as a starting premise, the validity of the HMI paradigm does not simply resolve itself. That is, the claims of HMI validity are premised on the *actual* existence of a certain type of international legal system, in whose absence the application of HMI as justification for war cannot be independently valid. Thus, the work of HMI proponents is not to convince us of the validity of HMI under some imagined set of circumstances, but under the extant international legal and political system. While the current international law may require revision or even outright rejection, that does not imply that HMI, *sans* the new legal paradigm, is externally coherent.

The Kuhnian system, as it relates to the HMI paradigm, can now be summarized. In order to demonstrate the HMI paradigm has failed, it must be demonstrated that it has reached the Kuhnian *crisis* stage and that the only meaningful solutions require a complete recomposition of the theoretical and conceptual structure of the paradigm and its methodology (i.e. a new paradigm). This process starts with understanding the HMI paradigm, tracking its pre-paradigm development phase through its historical development. By understanding the paradigm as a whole – its assumptions, theory, methodology, and *Weltanschauung*, the analysis will provide the second phase: namely that of HMI as "normal science." Next, the presentation of the anomalies, their interconnected nature, and practical contradictions (e.g. historical record) will be used to move the anomalies into the fourth stage – the crisis. Finally, the fifth stage will be examined in terms of forcing the rejection of the HMI paradigm, without the replacement mechanism.

CHAPTER III:

CONTEXT AND HISTORY OF HMI

In order to get a solid grasp on HMI as a paradigm, this section will focus on two particular points. First, HMI must be clearly defined, and its goals clearly laid out – along with the implications of both. Second, the development of HMI will be considered by following its historic arc, then in terms of major thinkers, and finally through its modern development.

Definition

The analysis starts by getting a clear definition of the idea before us, to avoid unnecessary ambiguities and subsequent irrelevant counterarguments. Our term of choice, HMI, stands for Humanitarian Military Intervention. This must be disambiguated from humanitarian interventions, military interventions, and other ideas that share some aspects of HMI, but fail to capture the specific nature of the paradigm in question.

Unlike International Humanitarian Law (IHL), which is a strictly legal notion of acts permissible and impermissible in war (focusing on the protection of rights of non-combatants and the restrictions on the means of warfare),[24] HMI is a strictly moral notion of acts impermissible for states as domestic policies, and justified international response (war) to such

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transgressions. The IHL is primarily focuses on war as an international activity (IAC), using a series of treaties and conventions to provide the legal framework to address legitimate and illegitimate actions of military forces – regardless of the righteousness of their cause. Such laws add up to some 600 treaty-based rules.[25] Alternately, IHL the laws regarding non-international armed conflicts (NIAC), which deal with laws regarding intrastate conflicts, such as civil wars, rebellions, and insurgencies, have less than 30 rules.[26] In either case, the law covers the rules of war, and does not stray into moral territory regarding the domestic policies of states. The IHL laws of war are impartial, and treat all sides in a conflict the same in relation to law (at least in theory). Finally, the IHL, as a point of law, is concerned with legal prosecution of violations, not with military retribution. HMI, on the other hand, is premised on drawing moral distinctions between the "good guys" and "bad guys," and consequently applying entirely different sets of rules to the two sides. Rather than laws or rules of war, HMI provides a moral justification for engaging in war, as a retributive measure against human rights violators. In fact, HMI contradicts with IHL in several cases, two of which will be considered in chapter V.

In considering HMI, it must be understood that the idea of HMI contains a motivation (an explanatory motive for action, including implications regarding the goals of action), methodology of action, and action type. The motivation of HMI comes from the initial term: Humanitarian, i.e. relating to the notion of support for human rights. A humanitarian idea must, by definition, be concerned with the status, context, and propagation of human rights. The question then arises: "which human rights?" This question is plagued with vagueness of definition from a historical, as well as contemporary perspective. For example, the UN has

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[25] *Ibid.*
[26] *Ibid*.

claimed in 2011 that access to internet is a basic human right.[27] On the other hand, the US has engaged in torture of terror suspects, as well as secret military trials, with secret evidence.

There is little agreement as to what constitutes a comprehensive list of human rights in a universal context. The use of the Universal Declaration of Human Rights (UDHR) is of little practical value, given that no nation has actually adopted all the laws prescribed therein – let alone enforced them. Hence, while appeals have been made to UDHR, the practical meaning and application of the document is less than useful. Arguments have also been made differentiating human rights into basic (core) rights and privileges – with the argument for the primacy of the former in determining a status of HMI-worthy violations.[28] These efforts have been somewhat successful, but have also faced the problem of non-agreement, such as the case of the 1993 Bangkok Declaration, and even at the second UN Conference on Human Rights – held in Vienna in 1993.[29] This failure to achieve agreement, especially on ideas claimed to be "universal," is a problem unto itself and will be explored in more detail throughout this analysis.

Given the difficulty in nailing down the precise content of human rights, and thus the specifics of what constitutes a violation, the analysis will content itself with confining such meaning to generally agreed-upon basics, namely absence of genocide and ethnic cleansing. For

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[27] UN General Assembly: Human Rights Council *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue* [A/HRC/17/27]
 http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf
[28] World Federalist Movement - Institute for Global Policy. *Summary of The Responsibility to Protect.* Pg. 4. http://www.responsibilitytoprotect.org/files/R2PSummary.pdf AND
Walzer, Michael. "The Argument about Humanitarian Intervention." 29-37. In *Dissent*. Winter 2002. https://www.dissentmagazine.org/article/the-argument-about-humanitarian-intervention
[29] Zolo, Danilo. *Victor's Justice*. New York: Verso, 2009. Pg. 62.

the purpose of this analysis, the specific content of human rights is not a primary concern, and so the details can remain somewhat fuzzy.[30]

The second part of HMI terminology is intervention. Intervention, or rather intervening, is coming between things that would otherwise affect one another, and thus altering the result. An intervention defined as humanitarian is one that is justified on aforementioned humanitarian grounds, and is carried out with humanitarian goals as its guiding ideology.

Finally, the idea of the humanitarian ideology with an interventionist action type is modified by the idea of the military methodology as a means of intervening. Once the adjective "military" is added, it puts a particular spin on the means of the humanitarian intervention ideology. Here, "military" does not refer merely to the agents carrying out the intervention (as soldiers often deliver food supplies as humanitarian aid to dangerous regions, and HMI could conceivably be carried out by PMCs), but rather to the methodology to be used to attain the intervening ideological goals; namely war. Given that military methodology is applied to an intervention in the domestic affairs of a state (not in self-defense or aggression), the act is not one of traditional war.

The language used by *The Responsibility to Protect* (R2P) is especially useful in accounting for the above definition, as well as demonstrating the need for HMI as a term.

> "*Military intervention for human protection purposes* must be regarded as an exceptional and extraordinary measure."[31] and "'where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it' (*synopsis* p. xi) then 'it becomes the responsibility of the international community to act in its place...'"[32]

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[30] This "fuzziness" seems a permanent feature on the topic. Even the clearly pro-HMI positions use language that the opposing side also uses to bolster their own arguments.
[31] World Federalist Movement - Institute for Global Policy. *Summary of The Responsibility to Protect.* Pg. 6. Emphasis added.
[32] *Ibid.* Pg. 4.

The R2P definition of HMI clearly matches the one posited by this analysis. However, where R2P and other authors continue to use oddly twisted language, HMI captures all the necessary qualifications in a far simpler form.

Traditional war is waged as an offensive war for gain,[33] as a means of retaliation (morally and legally questionable), or as a defensive war of self-protection or protection of an ally (also called "other-protection"). This means that the justification for traditional war is the direct self-interest of a state: defensive or offensive. In all cases, the parties to war are states *qua* states,[34] and justification for military engagement is the *international acts of states*. As a basis for war, HMI signifies military hostilities against a state for its *domestic policies*, rather than international ones. Thus, the difference is categorical.

HMI is necessarily taken in response to domestic policies, because if the policies in question were international, the resulting justification would already be included in the traditional war definition. That is, one would be acting in self-defense or defense of an ally – both of which already have a clear and uncontentious justification in international law. The only remaining possibility for war, besides illegitimate wars of aggression or punitive ones, is a war on the basis of domestic policies of a state. Thus, the US forces in WWII acted in a traditional war role in protecting US allies (European and African Theaters), and in self-defense (Pacific

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[33] Such wars are classified as "wars of aggression," and have been considered illegal since 1928 by the Treaty of Paris - better known as the Kellogg-Briand Pact.

[34] Acts of rebellion, insurgency, and other similar warlike situations do not result in war proper, but in police action by the state, precisely because the other side does not have the legitimacy in claiming jurisdiction over the land or people. This principle was a component of the Roman definition of war, and was later reintroduced to Europe in the 9th and 10th centuries by the Church under the Truce of God and Peace of God treaties, which limited the right to wage war solely to the sovereign - thus ending wars *Duello*.

Theater).[35] The liberation of millions from concentration camps and other forms of severe and

existentially threatening oppression, while morally laudable, did not make the US participation

an HMI, because the German military efforts were international by the time of the US

involvement – making it a traditional war. The 2011 US-led attack on the Libyan Gaddafi

regime, on the other hand, was an HMI – given that the civil war violence had not spilled beyond

the borders of Libya, and thus did not have an international status.

The goals of HMI stem from the humanitarian nature of its mission. It aims to stop

human rights violations in progress, or alternately to prevent imminent human rights violations

before they've begun. The corollary of human rights protection is also found in state stability.[36]

This is supported by the idea that unstable states are incapable of enforcing laws over their own

territory, even should their laws be geared towards protection of human rights. As Benedetta

Berti notes, states that cannot provide safety, security, and (civil) services are likely to see a rise

of organizations which will pick up the slack, and thus gain public support.[37] However, these

organizations commonly lack the legitimacy of states, and engage in questionable practices –

such as terrorism. Thus, state instability commonly leads to a rise in human rights violations, and

may even lead to international law violations. Hence, unstable states are states both incapable of

enforcing human rights, and likely to produce situations where those rights will be further

violated. Consequently, the goal of HMI is: *the use of a military as an instrument of **war** against*

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[35] Though the initial entrance into war with Japan is universally seen as legitimate, the conclusion of the war (use of nuclear weapons on civilian populations) is generally seen as illegitimate – though the particulars of that distinction are beyond the present analysis.

[36] World Federalist Movement - Institute for Global Policy. *Summary of The Responsibility to Protect.* Pg. 3.

[37] Berti, Benedetta. *The Surprising Way Groups like ISIS Stay in Power*. Ted Talk, August 2015. https://www.ted.com/talks/benedetta_berti_the_surprising_way_groups_like_isis_stay_in_power/transcript?language=en Accessed on 3/15/16.

human rights violators, in order to prevent human rights abuses and return a meaningful degree

of stability to the state and the region.

Major Thinkers

In the present context, there are three major philosophers whose ideas regarding intervention – and particularly humanitarian military intervention – have played a crucial role in shaping certain aspects of the modern HMI paradigm. Locke, Kant, and Mill represent major intellectual attitudes, upon which later philosophers continued to construct their arguments in support of HMI. This is not to say that other thinkers did not exert influence in the field. Instead, the ideas of the three chosen figures created the primary intellectual backdrop against which the later developments were, and continue to be, constructed. The present examination of their arguments will follow their chronological development.

Although Hobbes plays a crucial role in modern political theory, he will not be directly considered. Given that much of his argument is directly taken up by Kant, there is scant need for additional iteration of the same points, especially since it is Kant's arguments that carry the most weight in terms of contemporary HMI considerations. Among others, Grotius, Vittoria, and Vatel, like Hobbes, also provided much material, but it is the integration or rejection of their points by thinkers like Locke, Kant, and Mill that has carried their arguments into contemporary thought.

Locke

Writing in the immediate aftermath of the 30 Years' War, Locke is considered among the founding figures of modern Western political philosophy. Like a number of other writers of the

time, Locke was himself religious (Protestant) and relied heavily on religious sources to undergird or develop his arguments. However, though his approach often used religious (biblical) ideas, his formulation of political theory survived precisely because so much of it was not dependent on theology, but rather used it to demonstrate particular arguments.

Locke's ideas regarding intervention are non-humanitarian. He differed from Grotius and Vitoria by his recognition of epistemic ambiguity regarding the legitimate basis for intervention. This meant that, for Locke, the "clear cut" human rights violations that had justified intervention for Vitoria and Grotius, were insufficient for an intervention. Moyn argues:

> Unlike some of his colleagues amongst natural and early international law theorists, Locke never addressed humanitarian intervention. He worried more about the very real threat of unjust conquest: "the noise of War," as he called it, "makes so great a part of the History of Mankind" and it "is as far from setting up any government, as demolishing an House is from building a new one in the place" (§ 175). The fact that Locke forebore from outlining any moral rules for intervention, and instead ratified the possible moral credentials of insurgency against immoral incursion, makes him a rather different figure from most contemporary theorists of international relations – and once again difficult to enlist as a precursor of contemporary liberalism. But it is precisely here that his work seems of obvious theoretical significance today, especially in the aftermath of recent years, in which theorizing and moralizing intervention would seem not without its own drawbacks. In the absence of a secure way to adjudicate disputes over the norms governing conflict, Locke's case suggests, the epistemic uncertainty of warfare makes a theoretical rationale for insurgency an essential complement to any theory of intervention.[38]

Locke's ideas regarding intervention centered on the question of legitimacy of insurgency by the citizenry whose human rights were violated. This meant that the moral basis of human rights (at least as basis for military intervention) was not a universal standard that equally affected all people. Instead, relevant standards were to be determined by each people for themselves. Meaningful violations – of the kind that provide actually irreconcilable differences with the government – were to be demonstrated by the insurgency of a people against the government in question. As will become clear in comparison with Kant, this reading of

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[38] Moyn, Samuel. "John Locke on Intervention, Uncertainty, and Insurgency." 113-131. In *Just and Unjust Military Intervention*. Pg. 115.

intervention justification actually allowed for a functional difference of opinion on the value and acceptance of particular human rights by different societies without compromising the notion of human rights as a whole, or by forcibly imposing supposedly universal ideologies onto diverse peoples.

Locke argued that the sovereignty of a state was supreme, but that this status arose from the supreme sovereignty of individuals which had formed the state, and in their individual sovereignty retained the right to rebellion against the state.[39] The same principle of individual free will (taken from Grotius) provided his natural law basis of interstate relations.[40] Locke was also in agreement with Pufendorf regarding the idea that a monarchy (at least insofar as it is a sovereign monarchy of the *legibus solutus* kind)[41] cannot be understood as a form of civil government,[42] since it is the *civitas* itself that is the common subject of sovereignty – not the person of a ruler.[43] Locke's position, rejecting the possibility of a civil society under absolute monarchy is an argument against the imposition of an ideology foreign to the people from on high, which would curtail individual sovereignty. Taken a step further, the same argument protects the sovereignty of states against imposition of ideologies foreign to the state.

An interesting point in assessing Locke is that his concept of intervention can also be understood as a kind of traditional war justification. In essence, a state where the domestic policies create (and thus justify) insurgency by the populace, becomes not one, but two states in

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[39] Tuck, Richard. *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*. New York: Oxford University Press, 1999. Pg. 83.

[40] *Ibid*. Pg. 84.

[41] One can conceive of monarchies, and perhaps find historical examples thereof, where the position of the monarch was not one of absolute sovereign power, so that it was the role of the government and people to create laws - thus skirting the problem of the loss of individual sovereignty. Such positions have been argued by al Farabi's *The Political Regime* (10th century) and ibn Sina's *Healing Metaphysics* (11th century).

[42] Tuck, Richard. *The Rights of War and Peace*. Pg. 176.

[43] *Ibid.* Pg. 177.

conflict. Military action on behalf of one against the other is, in a sense, intervention – since the insurgent movement has not yet secured a state *per se*. On the other hand, intervention of this kind is also a traditional war in defense of an ally – whether one supports the rebel state or the original state – since the two sides are now considered to be two separate entities.[44] Thus, the Lockean question of intervention becomes rather a question of legitimacy of state assertion of sovereignty over a particular region or people.

Phrased in reverse, the idea is that the legitimacy of a state over its people is dependent on its willingness and ability to protect human rights of that population – with the content of those rights defined by the continued willingness of the people to remain under the regime. Where the state is unwilling or unable to provide such protections to a significant enough extent (of the kind that would qualify as meaningful human rights abuse for the populace in question), the insurgency of the population signifies this fact and thus justifies intervention by a foreign power. The intervening, however, is not understood as intervention in the domestic affairs of the offending state, but rather as between an existing and a nascent state – the latter being the *de facto* consequence of the insurgency.

This approach is, to speak somewhat anachronistically, similar to the classical Chinese concept of *tianming* – "mandate of heaven." *Tianming* is the justification of a state's (or ruler's) right to rule, demonstrated by the fact that they do, in fact, rule. On one hand, this is a rather Machiavellian definition, where might quite literally makes right. On the other hand, and contrary to the Western Judeo-Christian reading of the term "heaven," this right is not imparted

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[44] Intervention generally requires a pro-insurgent stance, as supporting the old government is a form of other-defense.

from on high, but is considered as reciprocal relation between the ruler and the ruled.[45] Thus, the ruler has the right to rule as long as he has the power to do so, yet the ruler's continued power ultimately stems from the consent of the people to be ruled in that particular fashion. Where the people withdraw their consent, they ultimately engage in insurgency, and the success of that insurgency is proof of the loss of *tianming* by the ruler over them. Of course, one only ever loses *tianming* after the fact; that is, after their ability to rule declines and insurgencies succeed in breaking away from the power of the state.

For Locke, the intervention system seems to work in a similar fashion: intervention is illegitimate as long as the people do not rebel – since their lack of rebellion is proof of functional rule by the state, and hence the state's right to rule in that fashion. The presence of a rebellion, however, is proof that the assertion of state rule over the region and its people is a false one, and that intervention is not a measure against the domestic policies of the state – since the state has already lost legitimacy to claim the region and its people as their own.

Locke's position thus comes to rely on the definition of state authority as based on the consent of the populace, and the expression of consent as lack of insurgency against the state.[46] On this definition, the epistemological ambiguity of intervention, a major issue in Locke's *Second Treatise*, is settled through tangible proof.[47] Locke's argument has later been taken up as an argument for distinction between morally legitimate and illegitimate states, though this kind of moralist reading is often forcibly interjected, against Locke's actual position. The departure from traditional moral arguments sets Locke against both earlier and later HMI authors – like

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[45] Ames, Roger T. and Rosemont, Henry Jr. *The Analects of Confucius: A Philosophical Translation*. New York: Ballantine Books, 1998. Pg. 47.
[46] Tuck, Richard. *The Rights of War and Peace*. Pp. 176-7.
[47] Moyn, Samuel. "John Locke on Intervention, Uncertainty, and Insurgency." Pg. 115.

Grotius and Vitoria, as well as Kant. As a final note, Richard Tuck argues that Locke's position seems to change over time, and that there is no single clear reading of his actual stance.[48] Thus, the above presentation of Locke should not be confused as presenting the whole of his theories. However, the noted ideas provide a coherent structure of Locke's understanding of international law, sovereignty, intervention, and humanitarian ideas – if not the only one.

Kant

Kant's position regarding the HMI is far more involved. The complexity of his position stems from its layered nature, characteristic of Kant, and branches in several directions and several arguments. Kant's arguments will be presented in a fairly linear fashion, by selections from several sources, to make for a more comprehensible and concise presentation.

Before we turn to the argument *per se*, it is important to note several points regarding Kant. First, Kant's position, regardless of the heavy emphasis on reason, does come from at least a cultural religious background – namely German Christian Protestantism – though he rejected overt religious arguments. Thus, for example, he concludes that the great progress of enlightenment is summed up as: think what you want, but obey the state.[49] He was also a student of Wolff, which may have served to influence him on the political (especially interventionist) front.[50] That said, Kant's position on political philosophy, as espoused in his *Perpetual Peace*, is one that takes the Judeo-Christian Europe as the standard of civilization, and considers all non-Europeans (primarily the Muslim lands bordered by Europe, as well as the Far East trading

[48] *Ibid*. Pg. 179.
[49] Kant, Immanuel. "What is Enlightenment?" 54-60. In *Kant: Political Writings.* Ed. Hans Reiss. Tr. H. B. Nisbet. New York: Cambridge University Press, 1991. Pg. 59.
[50] Tuck, Richard. *The Rights of War and Peace*. Pg. 188-9.

nations Europeans were in contact with at the time) as barbaric.[51] This is not a slight to Kant, as

he was certainly not alone in this regard, nor was the idea new or marginal in Europe. However,

it is important to note, as this kind of distinction plays an important role in his work, as well as

the work of his successors. Lastly, as E. C. Wit argues, there is a difference between Kant's and

Kantian positions. The former are those positions held by Kant himself – even if they might be

inconsistent. The latter are the positions derived from Kant's ideas, even if they are in opposition

to Kant's explicit arguments.[52] These later Kantian positions have used much of Kant's

framework to construct large parts of the contemporary HMI paradigm.

Categorical Imperative and the Political Right

All of Kant's arguments, regarding international relations, intervention, and human rights

position, are premised on his Categorical Imperative (CI) – "*act only in accordance with that*

maxim through which you can at the same time will that it become a universal law." As Kant

asserts, this point is a matter of "private morality." That is, the CI is the only appropriate moral

ideology available and applicable to everyone alike – as individuals – so long as they have

functional cognitive faculties.

As a maxim of private morality, the CI would appear to bestow certain moral obligations

on all humans – both in considering and interacting with others. Consequently, Kant's second

formulation of the CI states, "*act in such a way that you treat humanity, whether in your own*

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[51] Kant's arguments in *What is Enlightenment?* and *Perpetual Peace* seem to take the European standards - particularly those of republican Protestant states - as the basic standard of civilization. All other systems of governance are illegitimate. Given that the points of contact for Kant and Europe included the Muslim states, the Far East, and Americas (and the native Americans are described as "savages") one can conclude that all non-European nations fall under the barbarian/savage label, since they all fall under the category of unlawful states.
[52] E. C. Wit. *Kant and the Limits of Civil Disobedience*. University of Chicago, 1997.
http://www.math.rug.nl/~ernst/kant.htm Accessed on 12/20/16.

person or in the person of any other, never merely as a means to an end, but always at the same time as an end." This second formulation is, at least according to Kant, a direct derivative from the first, and provides the positive moral obligations. These two points serve to provide the basis for Kant's human rights formulation. Given that the Categorical Imperative is, in fact, construed as categorical, it becomes possible to define a set of rules that would obtain for all people – reciprocally – regarding their obligations towards others, which would then comprise human rights. Since the categorical nature of Kant's ethics does not admit of exceptions, the Categorical Imperative must be applicable to all people, everywhere, and under all circumstances. For Kant, this prevents selective application of morality – say, exclusion of Protestants or Catholics by the opposing group – but also leads to the inevitable conclusion that the exact same morality and rights must apply universally to every single person, regardless of their nationality or any other criteria. So long as the subject is human, the rule applies.

However, the idea of keeping morality in the private sphere alone is, for Kant, an incongruous concept. Morality is the theoretical understanding of the right, in that it provides individuals with guiding principles regarding all behavior towards others. However, the limits of private morality are rather narrow; knowing the right and having the ability to enforce it belong to entirely different spheres. Thus, in order for the right to be established beyond the minds of individuals and actually be implemented it must pass into the sphere of politics (what good is knowing the right, if the knowledge cannot be acted upon?). Kant defines politics as "applied right,"[53] i.e. the application of morality (CI) in an enforceable manner, by the appropriate authority. By shifting from a private morality into a political one, the rules theoretically derived

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[53] Kant, Immanuel. *Perpetual Peace*. In *Kant: Political Writings*. 93-175. Ed. Hans Reiss. Tr. H.B. Nisbet. New York: Cambridge University Press, 1991. Pg. 116.

by private morality become laws. Thus, the noted human rights become legally protected and enforceable.

At this point, the argument splits into the morality of states and their governance, and the universal application of human rights by the state. Kant weaves the two issues together, especially in his *Perpetual Peace*. For the sake of clarity, the present analysis will first follow the argument for human rights, and later return to the question of the state.

Human Rights

Kant begins with the noted premise of the universality of the CI, and the fact that it cannot be selectively applied. Just as the moral individual or moral state cannot legitimately distinguish between groups of its own citizens regarding rights, it cannot make a distinction between its own citizens and those of a different state. This follows necessarily from the universal application of the categorical imperative, on the basis of its rational derivation.

On the questions of morality, human rights, and intervention, Kant argues that rebellion of a people against the state, is never justified. He bases this argument on the requirement of publicness (public transparency) inherent in the Categorical Imperative: i.e. a good which must be hidden is not truly good. Thus, in terms of rebellion, Kant argues that while a tyrant is openly tyrannical, rebels must, *per force,* hide; hence rebellion is *ipso facto* unjust.[54] Further, despite the morally laudable goal creating a morally-based constitution (in opposition to some form of tyrannical rule), the means of pursuing such goals depends on the people involved in a rebellion

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[54] *Ibid.* Pg. 126.

necessarily beginning by immoral and criminal means.[55] Given Kant's stance on ethics, particularly the second formulation of the CI, rebellion must be rejected for its pursuit of potentially right ends in the future by demonstrably wrong means in the present. This distinction in justification of insurgency puts Locke and Kant at the opposite ends of the intervention spectrum.

For Kant, morality and human rights are given in absolute terms, independent of people, geography, ethnicity, context, etc. and dependent only on sound reason. As a result, the moral state must not only avoid infringement on the rights of citizens of other states, it must actively defend such rights – should they come under threat either by a foreign power or domestically.[56] To this end, Kant argues that "the rights of man must be held sacred, no matter the sacrifice necessary by ruling power,"[57] and "all actions affecting the rights of other human beings are wrong, if their maxim is not compatible with their being made public."[58] Kant's moral position can be summed up as the Latin adage: *Fiat Justitia Ruat Caelum* – let justice be done, though the heavens fall.

However, E. C. Wit argues that the difference between moral and positive law, and the difference between the idea of a sovereign and the person of the sovereign, does allow for a Kantian (not Kant's) rebellion against a ruler – should such a ruler fail to act in accordance to the republican constitution.[59] If this argument is taken as valid, then Locke's threshold of

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[55] *Ibid.* Pg. 118.
The unjust nature of rebellion can be understood as the fact that subjects seeking to rebel must break established and enforced laws of the state in order to do so. Hence, they are forced to act in a duplicitous manner, which is impermissible under the CI.
[56] Kant, Immanuel. *Perpetual Peace*. Pp. 125-6.
[57] *Ibid*. Pg. 125.
[58] *Ibid*. Pg. 126.
[59] E.C. Wit. *Kant and the Limits of Civil Disobedience.*

intervention would seem to apply. Since the Kantian reading would justify rebellion only on the grounds of severe breach of the republican constitution, the trigger points for Kantians and Locke converge.

While Kant's position may be seen as a more forceful defense of human rights than that offered by Locke, the moral absolutism of Kant's position means that his idea of human rights is one that is applied on all people – whether they agree or not, whether they wish to be "saved" or not. So long as they are human, the rights of people everywhere must be protected by those who *understand those rights the best* – a notion that carries a whole host of problematic connotations. The distinction with Locke now becomes a matter of letting the people decide upon their own values, as opposed to imposing one's own values upon them. By pushing through with universal rights to be forced upon all, and rejecting the legitimacy of rebellion as proof of human rights violations, Kant – at least theoretically – allows for intervention in states whose citizens are entirely content with the governance and its enforcement of laws defining and protecting their human rights. Alternately, Kant prohibits rebellion by a colonized people against colonial aggression particularly in the case where the colonial position follows Kant's ideas of Human Rights – even to the existential detriment of the colonized people. In this sense, Locke offers a much more culturally tolerant position, while Kant still carries the remnants of moral absolutism that justified war on the basis of "saving the souls" of the heathens.[60]

This sums up the basic position of human rights and morality for Kant. These arguments, though sometimes modified, are still commonly used in defense of the HMI paradigm. Next, the particularities of the moral state will help fill out the rest of the picture. As a final factor to be

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[60] Tuck, Richard. *The Rights of War and Peace.* Pg. 55.
Kant's position seems to mirror that of St. Augustine, regarding the use of violence that allows for punitive wars.

considered regarding Kant, we must take into account the fact that Kant's position is an elaboration of Hobbes's. The relations Kant refers to throughout his text, the particular definition of terminology, and even the kind of international superstructure he envisions, are directly Hobbesian in nature – though their scope is increased to cover states instead of individuals.[61]

Moral State

The pertinent discussion of moral states occurs within Kant's *Perpetual Peace*. While Kant offers some additional accounts, or rather variations of the one found in *Perpetual Peace*, these were earlier efforts, and *Perpetual Peace* seems to be Kant's final take on the issue. Within *Perpetual Peace*, Kant is concerned with a pair of related issues – beyond the human rights already discussed. First is the question of the domestic policies of a state; second is the question of what Kant terms foreign relations of "lawful" states – i.e. international relations and international law. Both efforts are made as part of his attempt to posit a theory of international relations that could, at least theoretically, usher in an era of true, permanent peace on a global scale. The combination of morally legitimate state and international relations is Kant's formulation of cosmopolitanism.

Kant argues that peace, if it is to be understood as actual peace, is not a matter of a cessation of hostilities between nations, but rather a form of active state *Weltanschauung*, whereby the ideology of the state must be content with its own reach and power.[62] This may be likened to the First City in Plato's *Republic*, in that the purpose of the state cannot be the constant increase of power, lest that drive give rise to expansionism, and thus to war.[63] Here, the

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[61] *ibid.* Pp. 207, 212-15, 230-1, 234.
[62] Kant, Immanuel. *Perpetual Peace*. Pp. 93-4.
[63] Plato. *The Republic*. Tr. G.M.A. Grube. Indianapolis: Hackett, 1992. Book II.

categorical imperative, and the accompanying publicness requirement serve to indicate the necessity of this contentedness,[64] especially in peace treaties.

The desire to expand, and thus a drive to war, is a "state of nature" for states. This means that the default inclination of states is towards war, or at least a standing threat of hostilities. Kant argues that this is precisely the point that must be overcome, in order to coherently speak of peace, rather than a temporary cessation of hostilities.[65] Thus, peace must be formally instituted between states, as a coming into the state of peace[66] – and such peace cannot have a secret intention of future war – which represents a negation of true peace noted above. However, not all states are eligible to sign up for the state of peace. Only states that are not in the state of nature can participate in a state of peace, because states in the state of nature are not "lawful states."

This, of course, raises the question of the criteria for a "lawful" state. For Kant, the only lawful state is one founded on republicanism. He argues:

First Definitive Article of a Perpetual Peace:
The Civil Constitution of Every State shall be Republican

A *republican constitution* is founded upon three principles: firstly, the principle of *freedom* for all members of a society (as men); secondly, the principle of *dependence* of everyone upon a single common legislation (as subjects); and thirdly, the principle of legal *equality* for everyone (as citizens). It is the only constitution which can be derived from the idea of an original contract, upon which all rightful legislation of a people **must** be founded. Thus far as right is concerned, republicanism is in itself the original basis of every kind of civil constitution, and it only remains to ask whether it is the only constitution which can lead to a perpetual peace.[67]

For Kant, the answer to the question above is in the affirmative. Part of the argument for why republicanism is a necessary political institution for lawful states relies on the idea that republican governments are less likely to pursue war, given that military involvement would

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[64] Kant, Immanuel. *Perpetual Peace*. Pg. 126.
[65] *Ibid.* Pg. 98.
[66] *Ibid.*
[67] *Ibid.* Pp.99-100.

mean that the military risks are taken on by the people who instigate war, rather than an insulated monarch.[68] The shift in balance, from monarchy to republicanism, would also bring out the possibility of a moral state, as Kant believed the laws in question apply universally – rather than with a lawgiver who is himself *legibus solutus*. Hence, the nature of the laws of a republican state would be balanced by the very idea of self-interest of the people.[69]

As noted, Kant assumes that pure reason leads to the moral right through the Categorical Imperative, and the institutionalization of moral right is the "political right." The two are understood as compatible and intertwined.[70] Kant's position on the domestic state of affairs then concludes

> A true system of politics cannot therefore take a single step without first paying tribute to morality. And although politics is itself a difficult art, no art is required to combine it with morality. For as soon as the two come into conflict, morality can cut through the knot which politics cannot untie.[71]

To summarize, Kant takes the argument on private morality as an objective standard specified by the Categorical Imperative, and through the argument for effective morality turns private into public morality – i.e. a political system. From his perspective, the only system that can bear out the combination of politics and morality is the republican one. He argues the point on the grounds of public participation tempering the laws of the state (being public and universal, the rights and laws are of equal benefit or detriment to all), as well as grounds for future international position – namely by tempering the actions of the state, thus forcing the people to become participants of their chosen policies. It is only by this process of infusing morality into the political sphere, and thus creating a particular type of state (republican), that any state can

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[68] *Ibid.* Pg. 100.
[69] *ibid.* Pg. 113.
[70] *Ibid*. Pg. 117.
[71] *Ibid*. Pg. 125.

escape the state of nature and become a lawful state *per se*. Kant's process is, quite directly, the

Hobbesian process with a variation on a theme. Where Hobbes argues for the social contract

which places men under the *Leviathan*, Kant's position argues for the best (or only) functional

model of that contract (republicanism), though the state itself is not the *Leviathan*, at least not in

its true form. Thus, Kant begins by following Hobbesian account of men in the state of nature

and providing a social contract through the Categorical Imperative – which necessarily leads to

republican states as pseudo-*Leviathans*.[72] He then recasts states as being in the same state of

nature as men, and facing the same problems (thus necessitating a further social contract), but

this time between states, rather than individuals.

What remains is the analysis of Kant's lawful state in terms of international relations.

Here, Kant's position splits again, this time into relations between lawful states, and relations

with at least one state in the state of nature. While Kant posits universal equal rights between

people, the same does not apply to states. Given the interrelated nature of the two subjects, a

complete separation is difficult. However, the analysis shall endeavor to present first the

relations between the lawful states, and then in relations with states in the state of nature.

Lawful States

Kant's relation of lawful states is built on the principle of a *federation of free states*. Such

states, as noted, must be domestically lawful states (republican), in order to be able to participate

in the federation. As regards such states and the federation's coming into existence, Kant writes:

> Peoples who have grouped themselves into nation states may be judged in the same way as individual men
> living in a state of nature, independent of external laws; for they are a standing offence to one another by

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[72] While the state itself does represent a Hobbesian Leviathan, the nature of the Leviathan, for Kant, does not have
the same absolute character.

the very fact that they are neighbors. Each nation, for the sake of its own security, can and ought to demand of others that they should enter along with it into a constitution, similar to the civil one, within which the rights of each could be secured. This would mean establishing a *federation of peoples*. But federation of this sort would not be the same thing as an international state. For the idea of an international state is contradictory, since every state involves a relationship between a superior (the legislator) and an inferior (the people obeying the laws), whereas a number of nations forming one state would constitute a single nation. And this contradicts our initial assumption, as we are here considering the right of nations in relation to one another in so far as they are a group of separate states which are not to be welded together as a unit.[73]

The federation would be a pacific one,[74] whose aim would be the ushering in of peace and peaceful relations beneficial to all.

> This federation does not aim to acquire any power like that of a state, but merely to preserve and secure the *freedom* of each state in itself, along with that of other confederated states, although this does not mean that they need to submit to public laws and to a coercive power which enforces them, as do men in a state of nature.[75]

To that end, the relations between lawful states are guided by the idea that, "no state shall forcibly interfere in the constitution and government of another state."[76] Kant's sole exception to non-intervention is in response to something like a rebellion, except that the state must already be split into "two parts, each of which set itself up as a separate state and claimed authority over the whole."[77] This exception means that the resulting war is not one of true intervention in the domestic affairs of a state, given that there is no clear jurisdiction of authority over the whole region.

For Kant, the benefits of federal freedom are proof of natural providence – or rather moral teleology. By nature, man is forced to organize into states as a result of tribal and regional enmity caused by tensions over land and resources (as per Hobbes). This tension, on one hand,

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[73] Kant, Immanuel. *Perpetual Peace*. Pg. 102.
[74] *Ibid.* Pg. 104.
[75] *Ibid*.
[76] *Ibid*. Pg. 96
[77] *Ibid*.

propagates the state of nature and war. On the other hand, "the *spirit of commerce* sooner or later takes hold of every people, and it cannot exist side by side with war. And of all the powers (or means) at the disposal of the power of the state, *financial power* can probably be relied on most."[78] Such trade partnerships are best facilitated both in peace, and in continued security of that peace, so that the threat of war is off the table, so to speak; a proposition ensured by a federation of lawful states, which have rejected war. In fact, Kant argues that:

> Thus states find themselves compelled to promote the noble cause of peace, though not exactly from motives of morality. And wherever in the world there is a threat of war breaking out, they will try to prevent it by mediation, just as if they had entered into a permanent league for this purpose; for by the very nature of things, large military alliances can only rarely be formed, and will even more rarely be successful.[79]

What Kant imagines, in terms of lawful states' international relations, is an inherent drive towards a federation of lawful states, as it is only such a federation that will serve to protect their mutual interests of security and trade. Once one lawful state arises, provided it is powerful, it will seek the creation of the federation to protect its own interests – which will then become a focal point for federal association of other states, until the whole world joins up.[80] Again, Kant's position mirrors Hobbes, and this time, the final form of the Kantian *Leviathan* is revealed. In the same way that Hobbes argued for the social contract between individuals as the point of transcendence from the state of nature, Kant argues that the state of nature is amplified by the initial social contract (as the new entities in that state of nature are now far more powerful), and thus the interests of the states provide only a continuation of the same problem. The problem

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[78] *Ibid*. Pg. 114.
[79] *Ibid.*
[80] *Ibid*.

cannot truly be resolved unless states themselves enter into a social contract with one another. That is, the federation of states plays the role of the true *Leviathan* in Kant's *Perpetual Peace.*

Kant's ideology here also seems to reflect that of Confucian scholars, perhaps most prominently Xunzi (d. 239 BC), who wrote towards the end of China's 550 years of incessant war. Xunzi's theory for reunification of China rested on the principle of correct governance (laws, rights, meritocracy, etc.) as the basis for making a state internally strong. Once the state achieved this internal strength, it would serve as an exemplary state, such that other states would seek to emulate it – in the process of which they would either meld into a single state, or become a federation of states. Thus, Xunzi argued, the whole of China could be reunified through the creation of a single lawful state, without the need for coercive military measures against others.[81]

Other factors of Kant's federalist position include gradually abolishing standing armies (which are a threat to other states by their very existence),[82] prohibition on borrowing funds for wars (thus reducing warfare incidence rate by restricting the ability to wage wars),[83] drive toward abolishing war *in toto* (in concert with the spread of federalism),[84] and substitution of federation for the union of civil society (i.e. what constitution is to the state, the federation is to the plurality of states).[85] Kant concludes, "If the concept of international right is to retain any meaning at all, reason must necessarily couple it with a federation of this kind."[86] Part of Kant's argument also stems from his recognition that, on the international level, there is no supranational authority which plays the part of a judge or enforces the right – a point where he is bitterly opposed to

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[81] Xunzi. *Debating Military Affairs.* In *Hsün Tzu: Basic Writings.* Tr. Burton Watson. New York: Columbia University Press, 1963. Pp. 68-9.
[82] Kant, Immanuel. *Perpetual Peace*. Pg. 94.
[83] *Ibid*. Pg. 95.
[84] *Ibid*. Pg. 104.
[85] *Ibid*.
[86] *Ibid*. Pg. 105.

Grotius and Vitoria.[87] Thus, the only alternative is to create a *Leviathan* through a federation of states, all of which have the same core values, based on the CI.

Thus far, we have seen Kant's account of international relations and intervention from the moral and political fronts, in the creation of a lawful state (republican), and in the relation of lawful states to each other (federalism). At last, we turn to the relation of lawful state to states in the state of nature, where the final elements of Kant's intervention policy may be found.

Unlawful States

As a starting point, iteration is necessary on two fronts. First, moral obligations are understood to be universal, and follow the universal understanding of human rights, regardless of citizenship. Second, the only lawful states are those founded on the moral right, which turn the moral right into political right, and are republican in governance. These two elements are critical in understanding Kant's position on the present issue.

Unlike lawful states, states in a state of nature seek only their own aggrandizement.[88] They do this as an extension of the perceived necessity of Hobbesian existential rivalry with other states, whereby they are constantly brought into conflict over land and resources. As such, states in a state of nature are incapable of true peace, since their *raison d'état* is constant increase in power, by any means necessary, as a way of ensuring survival.[89] Peace treaties of states in a state of nature are merely ceasefire agreements, intended to let the belligerents replenish their war-waging capacities. Thus, Kant argues that states in a state of nature are either at war, or

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[87] *Ibid*. Pg. 103.
[88] *Ibid*. Pg. 102.
[89] Tuck, Richard. *The Rights of War and Peace.* Pg. 6.

perpetually engaged in a threat of hostilities – as true peace is not recognized as a possibility. States in a state of nature are incapable of meaningfully participating in a state of peace with lawful states, resulting from their permanent "secret intention of future war – necessary in the perpetual pursuit of self-aggrandizement."[90]

Accepting Hobbes's state of nature description, Kant argues that it is a moral duty of men to leave the state of nature and enter civil society.[91] Consequently, he argues that the mere existence of states in a state of nature is a threat to all lawful states and peoples alike.[92] Their *de facto* inclination to war and violence, and disregard for human rights and the right in general, lies at the heart of the argument. These unlawful states are actually not states at all, but are instead the haphazard amalgamation of a people or peoples into a structure of basic self-preservation. Lacking the necessary domestic structure to make them lawful, states in the state of nature have no rights *qua* states – in the same way that non-humans cannot have human rights.

This means that, for Kant, states in a state of nature (unlike lawful states) are open to coercion and intervention, including war. The intervention against such "states" is not a true intervention, as there is no lawful state upon which one would intervene. The moral obligations regarding the people of such states persists in the same way as it does for one's own citizens, and here lies the aforementioned problem of imposing one's own ideas onto others, without their consent. Given the noted requirements of lawful states, Kant's position devolves into a sharp division of the world into "civilized" and "barbarian" states,[93] where the former are free to "save" and "enlighten" the latter by any means necessary – since "the rights of man must be held

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[90] Kant, Immanuel. *Perpetual Peace*. Pg. 93.
[91] Tuck, Richard. *The Rights of War and Peace.* Pg. 207.
[92] Kant, Immanuel. *Perpetual Peace*. Pp. 98, 102.
[93] *Ibid.* Pp. 102-3.

sacred, no matter the sacrifice necessary by the ruling power,"[94] particularly when made by the

unlawful state or its people. Kant argues that, "unless one neighbor gives a guarantee to the other

at his request (which can happen only in a *lawful* state), the latter may treat him as an enemy."[95]

Additionally, he explains the statement with a footnote:

> It is usually assumed that one cannot take hostile action against anyone unless one has already been *injured*
> by them. This is perfectly correct if both parties are living in a *legal civil state*. For the fact that one has
> entered such a state gives the required guarantee to the other, since both are subject to the same authority.
> But man (or an individual people) in a mere state of nature robs me of any such security and injures me by
> virtue of this very state in which he coexists with me. He may not have injured me actively (*facto*), but he
> does injure me by the very lawlessness of his state (*statu iniusto*), for he is a permanent threat to me, and I
> can require him either to enter into a common lawful state along with me or to move away from my
> vicinity. Thus the postulate on which all the following articles are based is that all men who can at all
> influence one another must adhere to some kind of civil constitution. But any legal constitution, as far as
> the persons who live under it are concerned, will conform to one of the three following types:
>
>> 1. a constitution based on *civil rights* of individuals within a nation (*ius civitatis*)
>> 2. a constitution based on the *international right* of states in their relationship with one another
>> (*ius gentium*)
>> 3. a constitution based on *cosmopolitan right*, in so far as individuals and states, coexisting in an
>> external relationship of mutual influences, may be regarded as citizens of a universal state of
>> mankind (*ius cosmopoliticum*). This classification, with respect to the idea of perpetual peace, is
>> not arbitrary, but necessary. For if even one of the parties were able to influence the others
>> physically and yet itself remained in a state of nature, there would be a risk of war, which is
>> precisely the aim of the above articles to prevent.[96]

The first civil rights basis has already been limited to the domestic republicanism based

on Kantian moral principles. International right is the federation of states, which assumes civil

right of member states. The cosmopolitan right is, according to Kant, analogous to international

right,[97] though "Cosmopolitan Right shall be limited to conditions of universal hospitality...

[meaning] the right of a stranger not to be treated with hostility when he arrives on someone

else's territory,"[98] nor turned away if doing so would cause his death.[99] Consequently, Kant's

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[94] *Ibid.* Pg. 125.
[95] *Ibid.* Pg. 98.
[96] *Ibid*. Pp. 98-9.
[97] *Ibid*. Pg. 128.
[98] *Ibid*. Pp. 105-6.
[99] *Ibid*.

assertion is that only republican states are not an *ipso facto* threat and have rights *qua* states – as they are necessarily engaged in a federalist and cosmopolitan projects. All other states have no lawful (moral) basis for existence, and thus no rights, and should be treated as a threat on par with a state actively seeking one's injury. Justus Lipsius (d. 1606) makes the same point, "invasion can be legitimate, even without precedent injury, as in the case of barbarians and other people who are wholly abhorrent to us in customs or religion: especially if they are powerful, and themselves invade or have invaded other countries."[100] Oddly enough, any non-republican state (i.e. in a state of nature) would then, rightfully and reasonably, take the republican state in particular as a necessary enemy and an immediate threat – given the latter's inherent enmity towards itself.

When this idea is coupled with the preservation of human rights of all people, regardless of their citizenship, the conclusion is that "intervention" becomes not only legal but morally obligatory on behalf of the people living in the unlawful state of nature. As will be explored later, this ideology has been taken as a sort of Western ideological and military imperialism, which granted the West the right to interfere in the affairs of other nations, politically as well as militarily.[101] However, it should be noted that Kant's view on European colonialist methodology stands in stark contrast with some of the implications noted thus far.

> If we compare with this ultimate end [cosmopolitan right] the *inhospitable* conduct of the civilized state of our continent, especially commercial states, the injustice which they display in *visiting* foreign countries and peoples (which is their case is the same as *conquering them*) seems appallingly great.[102]

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[100] Lipsius, Justus. Quoted in *The Rights of War and Peace*. Richard Tuck. Pg. 44.
[101] Zolo, Danilo. *Victor's Justice.* Pg. 62.
[102] Kant, Immanuel. *Perpetual Peace*. Pg. 106.

To summarize, Kant's HMI ideology springs from the CI. In examining its role, Kant concludes that the moral dimension must also be part of the political landscape and perspective – domestically and internationally. Domestically this means that a moral state must be a republican one. Internationally, this means that the moral state must construe the rights of all people as being universally equal, and in need of same moral protections – regardless of their national belonging – as *citizens of the world*. On the other hand, it also implies that the only states which a lawful state can admit as equal in statehood, are also republican – otherwise they are not moral, and are thus unlawful. Unlawful states are a *de facto* threat, and have no rights – on the basis of their immoral character. Thus, they can be interfered with, since they have no legitimate claim to sovereignty and pose a threat to lawful sovereign states. This intervention takes two forms: defense of lawful states for whom the very presence of an unlawful state is an existential threat; or for the preservation and guarding of human rights of the population of the unlawful state, given that their own state is unwilling or unable to protect them. Finally, it should be noted that in his pursuit of perpetual peace as a state to be obtained once and for all, with its basis in human rights and correct form of governance, Kant reflects many of the ideas of religious moral idealism – namely that of St. Augustine's *Civitas Dei.*

It is unclear how Kant proposes to balance his ideology of delegitimizing of, and enmity towards, all non-republican states, and moral indignity at the methodology of European colonial practices. While the specifics will be dealt with later, it is important to note these issues at this juncture in order to demonstrate both the development of HMI by the late 18th century, and to draw a comparison with Mill.

Mill

John Stuart Mill, famously the co-founder of utilitarianism, made a relatively small foray into the question of HMI. However, it is the utilitarian principle, coupled with his *A Few Words on Non-Intervention*, that has served to provide a rather disproportionately large basis for a number of pro-HMI arguments and paradigm cornerstones– some of which cross paths with Kant's ideology, though on very different grounds. While the specifics of the utilitarian HMI argument will be noted in the next chapter, some basic groundwork will serve well to indicate the general position of utilitarian thought on the subject of HMI, as well as the historical moment of its development and implications.

The text in question, written in 1859 in the context of the construction of the Suez Canal and Crimean War, is penned by a British author, whose allegiances are clear from the outset, and whose work is written in direct support of the British colonial and interventionist practices. The utilitarian argument itself is a consequentialist theory, whereby the maximization of the greatest happiness for the greatest number is to be pursued. In the text, Mill argues that the intervention of one state into the domestic affairs of another – military or otherwise – is justified so long as the intervening state is more enlightened than the victim – and thus the intervention is a means of spreading enlightenment.[103] This argument rests on the utilitarian notion that the harm, stemming from the rejection of sovereignty by intervention, is quantitatively less than the benefit that will be derived from the enlightenment. Mill argues:

> There is a great difference (for example) between the case in which the nations concerned are of the same, or something like the same, degree of civilisation, and that in which one of the parties to the situation is of a high, and the other of a very low, grade of social improvement. To suppose that the same international customs, and the same rules of international morality, can obtain between one civilised nation and another, and between civilised nations and barbarians, is a grave error, and one which no statesman can fall into,

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[103] Mill, John Stuart. *A Word on Non-Intervention*. London: Foreign Policy Perspectives #8. 1859. Pg. 4

however it may be with those who, from a safe and unresponsible position, criticise statesmen. Among many reasons why the same rules cannot be applicable to situations so different, the two following are among the most important. In the first place, the rules of ordinary international morality imply reciprocity. But barbarians will not reciprocate. They cannot be depended on for observing any rules. Their minds are not sufficiently capable of so great an effort, nor their will sufficiently under the influence of distant motives. In the next place, nations which are still barbarous have not yet got beyond their period during which **it is likely to be for their benefit that they should be conquered and held in subjection to foreigners.** Independence and nationality, so essential to the due growth and development of a people further advanced in improvement, are generally impediments to theirs. The sacred duties which civilised nations owe to the independence are either a certain evil, or at best a questionable good.... To characterise any conduct whatever towards a barbarous people as a violation of the law of nations only shows that he who speaks has never considered the subject. A violation of great principles of morality it may easily be; **but barbarians have no rights as a nation, except a right to such treatment as may, at the earliest possible period, fit them for becoming one. The only moral laws for the relations between civilised and a barbarous government, are universal rules of morality between man and man**.[104]

This argument is reminiscent of Kant's Hobbesian position *viz.* the treatment of states in a state of nature, and follows a similar line of reasoning with similar results. However, where Kant assumes that the lawful states (i.e. republican ones) have no basis for intervention against one another, Mill does consider the option, as follows:

> The disputed question is that of interfering in the regulation of another country's internal concerns; the question whether a nation is justified in taking part, on either side, in civil wars or party contests of another; and chiefly, whether it may justifiably aid the people of another country in struggling for liberty; or **may impose on a country any particular government or institutions, either as being best for the country itself, or as necessary for the security of its neighbours.** [105]

Mill's answer to the question is context-dependent. The first possibility of justified intervention is against a nation embroiled in a long and bloody civil war, with no prospect of either side obtaining or holding the victory.[106] In terms of domestic oppression, Mill denies justification for intervention against a native government, though he supports an intervention against an oppressive foreign government (*de jure* or *de facto*). However, the latter is only justified, according to Mill, in case of native insurgency.[107]

> To assist a people thus kept down [by foreign yoke or against a native tyranny upheld by foreign arms], is not to disturb the balance of forces on which the permanent maintenance of freedom of any country

[104] *Ibid.* Pp. 4-5. Emphasis added
[105] *Ibid*. Pg. 5 Emphasis added.
[106] *Ibid*.
[107] *Ibid*. Pg. 6.

depends, but to redress that balance when it is already unfairly and violently disturbed.[108]

Mill seems to suggest a Kantian reading in delineating legitimacy of states and their rights, with certain Lockean limits on intervention – i.e. the insurgency requirement. Mill seems rather clear on his position elsewhere:

> Every civilised country is entitled to settle its internal affairs in its own way, and no other country ought to interfere with its discretion, because one country, even with the best intentions, has no chance of properly understanding the internal affairs of another.[109]

However, as Kenneth Miller notes, in the sum of Mill's positions there is a disturbing later trend towards a rather different, and more imperialist reading.

> Then he [Mill] proceeds throughout his writings to qualify the principle by listing the particular circumstances under which intervention is justified. This leads him to the final conclusion that a nobly-intentioned intervention, with England assumed to be nobly-minded, on moral and libertarian grounds, which presumably England alone might interpret, is justifiable if, on weighing the consequences, it appears likely to be successful and beneficial. Such a conclusion so modifies the principle of non-intervention previously set up that it is exceedingly complicated and perhaps meaningless as a guide...[110]

Consequently, Mill's position essentially comes down to the earlier position against "barbarous states" (as per Justus Lipsius), or conversely to a position where the good of the enlightened states and their ideologies and interests is always *de facto* greater than that of the less enlightened ones, which then justifies intervention. Throughout this process, the key issue is the consequentialist calculation, where the good of the many outweighs the good of the few. In the later reading, the purported good is often taken to be regional stability and globalized trade, especially where the interests of the enlightened West are in question.

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[108] *Ibid*. Brackets mine. Emphasis added.

[109] Mill, J.S. "Letter to James Beal." 1865. 22-6. In *The Letters of John Stuart Mill*. Vol II. Ed. Hugh S.R. Elliot. London: Longmans, Green & Co., 1910. Pg. 24.

[110] Miller, Kenneth E. "John Stuart Mill's Theory of International Relations," In *Journal of the History of Ideas*, 22, 4 (Oct.-Dec. 1961), Pg. 509.

Modern History of HMI

The first "modern" HMI justification (or rather the precursor for it) comes from the

British involvement in the Greek insurrection against the Ottomans in 1824, and then again in the

Crimean War (1853-56). The claim made by the British government was an emotional appeal for

helping the Greek people throw off the yoke of foreign Ottoman oppression. The same event was

also part of the problematic *Eastern Question* for the British and worked to stymie the Ottoman

efforts to stabilize control over their lands (the Ottomans having ruled over Greece since mid-

14th century), as well as to prevent the Russians from gaining territory in Greece by their own

"assistance" to the Greeks. It should also be noted that, since the Ottomans were not part of the

European Christendom, their claim to state legitimacy was never seen as *de jure* valid by

European powers.

HMI was not seriously used as a justificatory argument again until the end of WWII, and

the founding of the UN Charter. Previously, despite WWI, the status of state sovereignty – which

had begun to form in 1648, continued to hold sway through institutions like the League of

Nations (1920-1946).[111] Even in the midst of WWII, there was no call for HMI, though this point

can be explained by the traditional war status of WWII, which made HMI justification moot.

However, even with the founding of the UN, the Charter opens with a reaffirmation of the

supreme status of state sovereignty:

> Chapter I; Article 7: Nothing contained in the present Charter shall authorize the United Nations to
> intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the
> Members to submit such matters to settlement under the present Charter; but this principle shall not

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[111] The Covenant of the League of Nations. Article 15. Available at:
http://avalon.law.yale.edu/20th_century/leagcov.asp Accessed on Nov. 3, 2016.

prejudice the application of enforcement measures under Chapter Vll.[112]

Chapter VII deals with the military enforcement of international peace by the UN, against acts of aggression, and for maintenance and restoration of international security. It is here that the UN Charter effectively breaks down – particularly in light of issues such as the unlimited veto power of the UN Security Council Permanent members – UNSC[113]- (i.e. USA, UK, France, China, and Russia). The specific issue in question are the following articles:

> Chapter 7; Article 39: The Security Council shall determine the existence of any **threat to the peace**, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.[114]
>
> Chapter 7; Article 42: Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to **maintain or restore international peace and security**. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.[115]

The problem arising from these two articles is the vagueness in their phrasing. The "threat to peace" may or may not in itself be justificatory for the use of military intervention against a state for its domestic policies, in order to "maintain or restore international peace and security."[116] One can understand the interventionist perspective as giving credence to the "never again" slogan, following the Holocaust.[117] However, the ambiguous language makes it unclear what precisely qualifies as a "threat to peace;" a problem which has had various UNSC members

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[112] UN Charter, Chapter 2, Article 7
[113] Though the UNSC also includes 10 non-permanent members, their lack of veto power (among other issues) makes their presence irrelevant. Therefore, the acronym UNSC will henceforth be used to refer only to the UN Security Council Permanent Members.
[114] UN Charter, Chapter 7, Article 39. Emphasis added.
[115] UN Charter, Chapter 7, Article 42. Emphasis added.
[116] While the treaty element of the UN Charter carries this ambiguity, the international customary law has effectively settled on permitting such intervention methods.
[117] Bellamy, Alex J. "Responsibility to Protect or Trojan Horse." 31-54. In *Ethics and International Affairs.* Vol. 19, Issue 2, September 2005. Pg. 33.

at odds over whether a particular domestic policy of a state justifies intervention. Commonly, the combination of UN Charter notions of sovereignty, threats to peace, and maintenance of international peace and security are taken to mean that UN may only intervene where the effects of domestic problems spill over into the international arena – or threaten to do so. Thus, the HMI position (premised solely on domestic human rights violations) contradicts, and seeks to override, international law. In fact, the disagreement of the HMI-supporting states and those in opposition commonly results in the inability to attain UN authorization, and the consequent skirting of the UN by the UNSC members (e.g. Kosovo, Iraq, and Syria interventions). Given the unlimited veto power of UNSC, the use of military force by a UNSC member cannot be legally censured, nor intervention be enforced by the UN over a veto. The juxtaposition of UN Charter Chapters II and VII gives a rather clear demonstration of the self-contradictory nature of the present state of international law – law that holds the sovereignty of a state supreme, yet subjects it to "legal" violation by UNSC individual members. For this reason, *The Responsibility to Protect* (R2P) argues that:

> The Permanent Five member of the Security Council should agree not to apply their veto power, in matters where their vital state interests are not involved, to obstruct the passage of resolution authorizing military intervention for human protection purposes for which there is otherwise majority support. (*synopsis* p. xiii)"[118]

The interventions in Bosnia,[119] Kosovo, Iraq, and elsewhere have suffered from the UNSC deadlock, where Russia and/or China have opposed the intervention by way of veto, which led to unilateral/extrajudicial action on the part of US – stymying a systematic and methodological approach to intervention as a legal tool. The subsequent interventions occurred outside the

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[118] World Federalist Movement - Institute for Global Policy. *Summary of The Responsibility to Protect.* Pg. 7
[119] Though commonly cited as an HMI, the Bosnian war is better classified as traditional war of self-defense - given that the aggressive belligerents received military aid from Serbia and Croatia - thus making their military efforts a foreign war of aggression against a sovereign state.

purview of the UN, but remain immune from legal prosecution, because the primary intervention actors hold the power to veto any legal condemnation. R2P argues that, by refraining from exercising veto powers outside of vital state interests, the political/legal deadlock of UNSC can be avoided, and interventions can be standardized and sanctioned. However, this position of abstaining has already been found wanting in the League of Nations.[120]

Despite the claims of proponents, the UN-based HMI justification remains muddied in terms of details. There exists both the noted disagreement on the *Jus ad Bellum* justification, and even more in the *Jus in Bello* discourse. Thus, even where HMI may seem justified, Walzer notes that, in the relevant cases, "Intervention is clearly justifiable but, right now at least, it's radically unclear how it should be undertaken."[121] This radical opaqueness of HMI *in bello* methodology – even if one accepts the *ad bellum* premise – should serve to give pause in the pursuit of HMI. Given that the diverging opinions diverge precisely because of the type and scope of harm to be inflicted on civilians and the state (as well as issues of self-interest by various UNSC members), the pursuit of the wrong *in bello* HMI methodology stands to create a humanitarian crisis all its own.

Zolo argues that the role of HMI is the right of the international community to intervene on a country's national territory, in order to verify the human rights violations and to aid the mistreated population.[122] As such, the UN Charter represents the first formal institution of HMI justification (if obliquely) in the modern world. Yet, despite its presence, HMI remained unused

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[120] League of Nations. Vol. III, Nos. 1-2. Feb - April 1920. Article 5, Pg. 114.
[121] Walzer, Michael. "The Argument About Humanitarian Intervention."
[122] Zolo, Danilo. *Victor's Justice*. Pg. 48.

as an intervention justification, until the fall of USSR. Michael Wesley provides a succinct

summary of the relevant factors in his *Toward a Realist Ethics of Intervention*:

> Between 1945 and the early 1990s, there was considerable reluctance on the part of Western states to critique the human rights performance of postcolonial states. During the colonial period, and particularly in the context of battling decolonization movements, all of the colonial powers had engaged in serious human rights abuses. Furthermore, the key human rights issue in the West in the 1950s and 1960s, racial equality, closely echoed anticolonial rhetoric, making Western leaders and commentators largely inattentive to humanitarian breaches in non-white countries.[123] Human rights began to gain prominence as an issue in international relations in the context of the Cold War, particularly after the passing of the Final Act of the Helsinki Conference on Security and Cooperation in Europe in 1975.[124] It was not until after the Cold War, in the early 1990s, however, that humanitarian catastrophes surged to prominence as issues demanding direct preventative and corrective intervention by the international community.[125] The motivation towards human rights interventionism on the part of Western states came in response to several factors. One was that the human rights outrages appeared incongruous in the light of the predominant "new world order" liberal internationalist euphoria prevailing at the end of the Cold War.[126]

Following the fall of USSR, and a veritable explosion of violent and genocidal domestic

conflicts around the world, HMI quickly became a standard justification for military intervention

by Western powers – if a secondary or tertiary one. In the 1990's, HMI was used as a

justification for interventions in Bosnia, Rwanda, Sudan, Somalia, and Kosovo. It is also worth

noting that Fukuyama's *End of History* argument served to bolster the pro-HMI ideology.

> For most of the postwar period, Western states have been little concerned about the domestic political makeup of postcolonial states, in terms of the presence or absence of functioning democracies.[127] This lack of concern… began to change by the mid 1980s, as the Reagan administration faced the prospect of losing the United States' strategic bases in the Philippines to the "people power" protests shaking the Marcos dictatorship...[128] From that point, elements on both the Left and Right of politics in the United States provided strong adherence to what Walter Russell Mead calls the "Wilsonian" tradition of foreign policy, which seeks to export democracy to undemocratic states.[129] Fukuyama's widely read "end of history" thesis made the case that the progress of liberal democracy was inevitable; thus in advocating democratization, it was argued that American foreign policy would be pushing at an open door.[130] Democratization… promised to reduce the number of dictators, who were seen as less trustworthy international partners and

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[123] Wesley, Michael. "Towards a Realist Ethics of Intervention." 55-72. In *Ethics and International Affairs.* Vol. 19, Issue 2, September 2005. Pg. 64.

[124] *Ibid.*

[125] *Ibid*.

[126] *Ibid*. Pg. 65.

[127] *Ibid*. Pg. 61

[128] *Ibid*.

[129] *Ibid*. Pg. 62

[130] *Ibid.*

less inclined to respect international norms.[131]

Coupling regime change (most often by democratization) with human rights was made easier with the preexisting Carter presidency policy of the annual Report on Human Rights Practices. The evaluation of states on their domestic human rights performance was devised in the wake of the Nixon-era scandals, with an eye towards correcting the moral standing of the United States domestically and abroad. Carter argued:

> For too many years, we've been willing to adopt the flawed and erroneous principles and tactics of our adversaries, sometimes abandoning our own values for theirs. We've fought fire with fire, never thinking that fire is sometimes best quenched with water. This approach failed, with Vietnam the best example of its intellectual and moral poverty. But through failure we have now found our way back to our own principles and values, and we have regained our lost confidence.[132] Our policy is based on an historical vision of America's role. Our policy is derived from a larger view of global change. Our policy is rooted in our moral values, which never change. Our policy is reinforced by our material wealth and by our military power. Our policy is designed to serve mankind.[133]

This human rights-based moral absolutism framework, coupled with regime change, served to create a solid ideological basis for the rise of interventionist policies in the 1990s. After the fall of the Soviet Bloc, the new ideology could be put into practice – and was certainly given reason to do so – without the threat of catalyzing WWIII and/or a nuclear holocaust.

> Throughout the 1990s, the Security Council expanded its interpretation of "international peace and security" authorizing interventions to protect civilians in so-called safe areas (Bosnia), maintain law and order, protect aid supplies (Somalia), and restore an elected government toppled by a coup (Haiti).[134] … many liberal states have begun to accept the proposition that intervention not authorized by the Security Council could be legitimate.[135] This is a partial consensus, however, because many if not most, of the world's states do not subscribe to the view that in exceptional circumstances unauthorized intervention may be legitimate.[136]

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[131] *Ibid.*
Fukuyama's argument, in concert with Kant's *Perpetual Peace* position, has also been argued by authors such as Ignatieff and Buchanan.
[132] Carter, Jimmy. Speech 1977. https://history.state.gov/departmenthistory/short-history/carter Accessed on 10/26/16
[133] *Ibid.*
[134] Bellamy, Alex J. "Responsibility to Protect or Trojan Horse?" Pg. 34.
[135] *Ibid*.
[136] *Ibid*. Pg. 35

With the 1993 UN appointment of Francis Deng as the Special Representative on Internally Displaced People (IDPs), the international community began the process of normalizing intervention.[137] Though the initial effort to provide a systematic structure for intervention purposes would not be completed until 1998 – in the form of "guiding principles,"[138] the argument for sovereignty as responsibility would mark an important step forward for HMI. As the bearers of responsibility for the well-being of their populations, states failing to adequately fulfil their obligations would be "helped" along by the international community. Such states could also forfeit their sovereignty by the failing to protect their citizens and unwillingness to allow international help. Deng's work implied the existence of a higher authority holding sovereigns accountable – and though not explicitly stated, the UNSC was to play that role.[139]

The Kosovo intervention served to advance the HMI position, with the ICISS commission's 2000 recommendation that, in the case of states unwilling or unable to protect their citizens from grave harm, non-interference principle "yields to the responsibility to protect." Shifting from the earlier dilemma of "sovereignty vs. human rights," the report instead focused on the measures necessary to protect people in dire need. The commission used language of Just War for the thresholds of intervention and precautionary principles for the act itself. Again, the UNSC was designated as shouldering the primary responsibility to act.[140]

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[137] Bellamy, Alex J. "The Responsibility to Protect and the Problem of Military Intervention." 615-639. In *International Affairs*. Vol. 84: 4 (2008). Pg. 618.
[138] *Ibid.* Pg. 619.
[139] *Ibid.* Pg. 620.
[140] *Ibid.* Pg. 621.

Following the 9/11/2001 attacks in the US, the UN Secretary General Kofi Annan used his Nobel lecture to argue that, "The sovereignty of states must no longer be used as a shield for gross violations of human rights."[141] In 2005, the *Responsibility to Protect* (R2P) document was endorsed in the UN General Assembly, and unanimously reaffirmed by the UNSC in 2006[142] (though with certain adjustments). "The ICISS recommended replacing the atavistic terminology of humanitarian intervention (sovereignty vs. human rights) with the new language of 'responsibility to protect.'"[143] R2P has since become a major conceptual tool of the HMI paradigm, and provides a certain legal framework relied upon for external justification of HMI pursuits.

With the start of the "war on terror," the rate of Western interventions increased. Though initially the new conflicts used HMI as something of an afterthought of justification, the HMI paradigm has adjusted so that the US invasions of Afghanistan and Iraq are now commonly discussed as HMIs (at least in part) in philosophical literature.[144] The scope of domestic policies that qualify as human rights violations worthy of HMI has also broadened in practice, and now includes generally tyrannical/despotic rulers (Iraq), civil war (Libya, Syria), and human rights violating/terrorist supporting governments (Yemen), among others. Along with the increase in the scope of policies potentially triggering HMI came an increased willingness of UNSC members to skirt UN authorization in the pursuit of intervention – a direction made possible by the unlimited veto power and impunity in action. Hence, the Kosovo intervention was carried out entirely outside the UN purview, as was the invasion of Iraq and the Western involvement in

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[141] Annan, Kofi. Speech given to the Nobel Foundation. Oslo, Norway, December 10, 2001. www.nopbel.se/peace/laureates/2001/annuallecture.html Accessed on 10/27/16.
[142] Bellamy, Alex J. "The Responsibility to Protect and the Problem of Military Intervention." Pg. 615.
[143] Bellamy, Alex J. "Responsibility to Protect or Trojan Horse?" Pg. 35.
[144] *Ibid*. Pg. 37.

Syrian civil war[145] – not to mention Russian *de facto* annexation of Crimea and the (behind the scenes) intervention in Ukraine. All of these interventions have been spearheaded by UNSC members – often unilaterally – yet no condemnation by UNSC is possible, in light of the offending state's ability to veto any such efforts.[146]

Finally, the modern history of HMI created something of an idealist/Realist split in HMI ideology. A number of modern thinkers have taken up Kant's (or rather St. Augustine's) position of teleological progress towards perpetual peace and the end of war – contingent on global democratization, supranational governance, and the attainment of *Civitas Dei*. Such idealism tends to take a far more expansive definition of human rights, and sees all deviation from its ideal as a threat to the ultimate teleological goal. On the other hand, a number of significant authors and policy-makers, like Niebuhr as well as President Obama and Samantha Powers, argue for a modified Realist position. They reject the possibility of perpetual peace and *Civitas Dei*, and instead argue for the perpetual war mandated by their own moral absolutism – on the grounds that objective evil cannot be permanently exterminated, but must instead be constantly put in check.[147] Though they turn the idealist perpetual peace into a Realist perpetual war, they also limit the justifications for war to only the most heinous objective acts of evil – i.e. genocide and ethnic cleansing. The limitation stems from the rejection of idealist ultimate universal peace as an object to be attained, and thus allowing for "imperfect" states, as long as they abstain from objective evil. While the idealists continue to enjoy some support, the Niebuhrian Realist

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[145] Although the West is ostensibly involved against ISIS in Syria, the recognition of government in exile and military support of political rebels and other parties to civil war as against the official government of Syria (and the initial pursuit of HMI against the official government), give every reasonable indication that the Western involvement is far from solely directed at ISIS, and seeks to control the domestic political situation through regime change.
[146] Zolo, Danilo. *Invoking Humanity*. Pg. 72.
[147] Perpetual war here takes the form of Kant's perpetual readiness for war, and willingness to engage in war - though on the basis of resisting objective evil, rather than state self-aggrandizement.

position is the basis of modern HMI. These differences, as well as a further analysis of Niebuhrian Realism, will be explored in the next chapter.

The present status of HMI is as follows: Since the early 1990's, the use of HMI has risen greatly, to the point that a number of military invasions are now understood as HMIs *post facto*. The policy of regime change, a default negation of state sovereignty, has been the most common goal of military involvement for the Western governments since 2001, and provides a customary law precedent in international law. Yet, there is no international standard of what such intervention means in terms of either the intervening or victim state – e.g. Afghanistan and Iraq included both regime change and "nation-building" efforts, while Libya included only military strikes against the government and no subsequent aid. There is also little agreement in terms of what the practical application thresholds are, or should be – a fact made clear in light of the failure in intervene in Chechnya, Somalia, and elsewhere, despite many similarities of human rights violations contexts.[148]

At present, the discourse on human rights has reached a fever pitch in many parts of the world, while globalization has allowed an unprecedented access into the lives of others. Consequently, domestic policies of states have now become focal points in determining (at least some aspects of) international relations between states. This general shift has been praised by thinkers such as Ignatieff as universal support for human rights,[149] but derided by thinkers such as Zolo as a new form of Western ideological imperialism.[150] Whatever the case, the arguments offered in support of HMI are plentiful, and are used with ever greater frequency to allow for

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[148] Zolo, Danilo. *Invoking Humanity*. Pg. 53.
[149] *Ibid*. Pp. 65-6.
[150] *Ibid*. Pg. 81.

military intervention against (or invasion of) sovereign states. However, as noted, these

arguments themselves are the wrong target when considering the paradigm nature of HMI, as

their invalidation would not particularly affect the paradigm, as such. The following chapter will

unpack the HMI as a paradigm, based on the historical and intellectual developments noted

above.

CHAPTER IV:

HMI AS A PARADIGM

As a paradigm, HMI aspires to a holistic *Weltanschauung*, with a complete understanding of the order, relations, values, and meanings it projects onto the world. In order to fully grasp the HMI paradigm and properly contextualize the various anomalies, it is necessary to first get a clear definition of what the HMI paradigm is, and is not, practically and historically. As noted in chapter II, all paradigms consist of four structures: axiomatic superstructure, superstructure-derived theory, theory-derived applied methodology, and the corresponding vision of the world.

It should be noted that HMI does not represent the only paradigm currently engaged in attempting to establish a sort of global dominance and acceptance. For example, the Realist and Pacifist positions represent alternative paradigms and counter positions to HMI; the former rejecting the role of morality in international relations and war (generally following the Machiavellian line of reasoning), and the latter being the moral position of an absolute rejection of all violence. The HMI, however, represents the mainstream thought of the majority of Western philosophical and political positions.

In the modern rebirth of HMI, the old justifications of moral absolutism were revived, though under a different maxim. Religion, as such, could no longer play part of the system, and so was replaced by universal natural morality – a point that had begun its modern theoretical development with authors like Vatel, Vitoria, and Grotius. Here, Kant's efforts were particularly

effective, since deontic ethics purport to produce an objective, secular, universal ethic. Unlike its locally-sourced religious predecessor that relied primarily on self-help of the interested community, the new HMI paradigm freed itself from the localized constraints and made its universal claims on the basis of humanity and human rights. This has become particularly prominent in the age of globalization which, along with globalized media, has helped to promote the concept of universal morality.

The imposition of "universal" values by one party onto another inherently rests on the notion of moral superiority of the intervening power over the targeted state – at the very least with respect to the particular human rights in question. Such a position has been argued, by authors like Zolo, to represent a regression from the Westphalian ideal of equal states "to old rhetorical models for the justification of war, including major elements of the 'imperial' doctrine of the *bellum justum* and its theological and sacrificial ethos, based on the Bible: the 'holy war' to be waged against barbarians and infidels."[151]

In particular, the 1993 Bangkok Conference, and the dissenting position at the Vienna UN Human Rights conference the same year, demonstrated the absence of claimed universalism in practice, and further established the alternative to the Western universalist claims, by outlining the "Eastern" values that rejected the Western model. The Bangkok conference rejected the Western individualism-based claims, in favor of the more traditional "Asian" communitarian and collectivist attitudes.[152] The dissenting position in Vienna argued against the limited position of human rights as individual freedoms, and instead argued for the collective economic

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[151] Zolo, Danilo. *Victor's Justice*. Pg. 95.
[152] *Bangkok Declaration*. April 2, 1993. http://faculty.washington.edu/swhiting/pols469/Bangkok_Declaration.doc Accessed on 9/6/16.

development basis of human rights – particularly as concerned the first-world and the third-world disparities.

The moral absolutism of the new HMI paradigm is additionally accompanied by extreme individualism. The emphasis on the individual, rather than communities, as the locus of human rights is part of the Western historical development of political thought. It also plays heavily into designation of human rights violations, by assessing the presence or absence of such violations not by considering the community as a whole, but on an individual basis. For example, mass displacement of people is taken as a major human rights violation. However, China relocated thousands to towns and villages (some 1.3 million people) in order to construct the Three Gorges Dam.[153] Chinese emphasis on collective (rather than individual) rights means that they understood the collective benefit of the dam to some 160 million people (by providing electricity), saving of 15 million lives by flood prevention, and economic benefit of better cargo transport, to be more valuable to the state, than the right of some 1.3 million people to reside in the location of their choice.[154] Thus, even though the individual human rights of the displaced people were "violated," the collective rights of the people of China were protected.

These dissenting positions are important to note, because they represent the rejection of some HMI axioms for considering human rights. While authors like Ignatieff are unlikely to be swayed away from their HMI paradigm adherence, his claims (as well as the claims of many of his compatriots) that the undergirding HMI ideology is universally agreed-upon, is belied by the fact that the representatives of more than 50% of the global population have repeatedly rejected

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[153] National Geographic News. *China's Three Gorges Dam by the Numbers.* http://news.nationalgeographic.com/news/2006/06/060609-gorges-dam_2.html Accessed on 12/20/17.
[154] *Ibid.*

such claims. Further, the Bangkok and Vienna rejections were accompanied by the argument that Western universal claims (especially as centered on the rights of the individual) and their ideological and HMI consequences amount to a morally fraudulent position, and are little more than a continuation of the colonial practice of propagating "enlightenment" by force.

In response, HMI proponents have often used the position that short-term harm of HMI justifies a long-term benefit – a position with strong Christian roots in Europe. This argument asserts that the evil created by HMI is so greatly outweighed by the good it eventually produces (or rather, by the objective evil it opposes), that the balance makes intervention a moral obligation. A rather patronizing version of the same argument makes analogy to vaccinating a child – painful now, but with great benefits in the future. Several major problems of this approach will be noted in the next chapter.

While the foregoing may be taken as a criticism of the HMI paradigm, it is not intended as an anomaly in its own right – as the HMI reply would argue that disagreement with its axioms merely indicates that one is wrong, in the same way that arguing against triangles having three sides simply indicates ignorance.[155] Instead, the purpose of indicating this issue is to note the lack of universal agreement on the supposedly universal morality, and to set the stage for the proper understanding of a later problem that arises in the pursuit of HMI – namely the mistrust and rejection of HMI-based interventions and regime change.

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[155] Buchanan, Allen. *Justice, Legitimacy, and Self-Determination*. New York: Oxford University Press, 2004. Pg. 158. This is the essence of the reply given by Allen Buchanan.

Axioms and Theory – Internal Paradigm Structure

The moral absolutism of the modern HMI paradigm, especially in terms of human rights of people as citizens of the world, functions as a core axiom of the paradigm, and is the foundation for much of the rest of its structure. Since the 1960s, the reintroduction of moral language of the Just War Theory has served to cast the operational constraints on warfare as a function of such morality.[156] The Just War Theory, often anchored in the religious European Judeo-Christian moral position, fits with the HMI reintroduction of moral absolutism standards. The Just War Theory constraints have generally been taken up by the HMI paradigm.

The modern HMI paradigm begins with Kant's deontic ethics as an article of faith. As noted, the Categorical Imperative defines a set of universal human rights, which carry the corresponding obligations. The next step is making the personal right into political right, and the application of the Categorical Imperative as the basis of domestic political structure. The moral absolutism of the position obliges a lawful state[157] to act internationally in the same way as it does at home – in regards to the protection of human rights.

The state, as a political unit, as a federal or cosmopolitan whole, or as an intervening power, is not tasked with ensuring the happiness of the people, but with securing the continuity

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[156] While earlier efforts sought to provide a somewhat similar series of warfare restriction (e.g. Hague and Geneva conventions, Kellogg-Briand Pact of 1928 outlawed war), it is only in the later part of the 20th century that the Just War Theory provided a coherent framework that sought to unify international law, ethics, and the reality of global politics.

[157] In order to avoid confusion, the terms "lawful" and "unlawful" will be used solely in the Kantian sense of a state whose political governance is based on moral ideals postulated by Kant, and adopted by the HMI paradigm. While some authors use the term "legitimate," in the sense of moral legitimacy, the practical implications of the term for international law make it less than suitable.

of the commonwealth (i.e. its existence and of the principles that constitute it).[158] These

principles, according to Kant, are:

> Firstly, the principle of *freedom* for all members of a society (as men); secondly, the principle of the *dependence* of everyone upon a single common legislation (as subjects); and thirdly, the principle of legal *equality* for everyone (as citizens). It is the only constitution which can be derived from the idea of an original contract, upon which all rightful legislation of a people must be founded.[159]

While the particular ideas here refer to the republican constitution of a state, the federation and

cosmopolitan goals are equally bound to the same principles. In fact, the common legislation and

legal equality principles, as part of international law, are prerequisite for the federation and

cosmopolitanism, as these supranational structures depend on a shared moral framework to

provide the grounding for their creation. For HMI, the crucial points of common legislation and

legal equality rest on the protection and enforcement of human rights.

The old, religious notions of intervention (particularly in the West) were, in many ways,

premised on idealism found in the moral absolutism of Manicheism, and the goal of realizing St.

Augustine's *Civitas Dei* as a global political reality. That position was geared towards a uniform

political, moral, and ideological international relations, whose homogeneity would create a final

system of perpetual peace and "Kingdom of God" on Earth. However, such idealism did not

historically pan out, and became relatively dormant by the 18th century. The 20th century saw the

return of moral absolutism yet again, but this time tempered with political Realism. The

distinctions of good and evil were preserved, especially in terms of objective/absolute evil.

However, the added Realism meant that the *Civitas Dei* goal had been abandoned, turning the

HMI from a realization of the goal of global political unity to that of a permanent journey

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[158] Wit, E.C. *Kant and the Limits of Civil Disobedience.*
[159] Kant, Immanuel. *Perpetual Peace*. Pp. 99-100.

towards increased goodness, with full understanding that the perfection of *Civitas Dei* is not possible. This idea of pursuing good, or standing against evil, despite the inability to entirely wipe it out, was championed by Reinhold Niebuhr.

Niebuhr had grappled with reconciling Christian idealism and social progress with objective Realism and historical analysis. Human progress, he argued, was not an inexorable march of progress towards an ideal endpoint. Instead, every advancement could also be used (and often was) to inflict greater harm on humanity.[160] As a result, he abandoned the idealist notions of progress and moral success as an endpoint; but retained moral absolutism, and coupled it with Realism. This resulted in the notion of a fallen world. The fallen nature of the world precluded, for Niebuhr, the human ability to achieve worldly perfection of the *Civitas Dei*. Yet, despite its fallen status, it is precisely the fallen world which necessitates that Christians actively work for progressive social causes, and for the realization of justice and righteousness.[161] The resulting system was Realism of moral absolutism.

Niebuhr's Realism introduced several additional points into the HMI, that resulted in a number of crucial differences with idealism. First, Niebuhr agreed with the Realists on the role of power in politics and coercion in the functioning of states and the international community. All power, he argued, was coercive; the only way to change the existing balance of power (aimed at shifting the effects such power had on crucial issues of good and evil) was by interjecting one's own, counter-coercive measures.[162] Niebuhr held that power can only be dislodged by a

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[160] McClay, Wilfred M. "Obama's Favorite Theologian? A Short Course on Reinhold Niebuhr." The Faith Angle Conference. May 4, 2009. Pub. Pew Research Center. Transcript. http://www.pewforum.org/2009/05/04/obamas-favorite-theologian-a-short-course-on-reinhold-niebuhr/#1 Accessed on 1/4/17.

[161] *Ibid.*

[162] *Ibid.*

greater power. Thus, if a system of behavior – domestic or foreign – was to be changed, one could only do so by using the same means by which the existing system was in place – i.e. coercion, usually requiring force. McClay summarized Niebuhr's position of Christian values and political Realism as, "Jesus Christ, meet Thomas Hobbes."[163]

Second, Niebuhr argued that, although individuals could be moral unto self-sacrifice, societies could not. He based the argument on the principle that the *raison d'être* of groups is the self-interest of members. Therefore, the moral ideal of purely altruistic action, without self-interest, was an impossibility for state actors.[164] However, given the necessity of self-interest in such decisions, Niebuhr argued that it did not make actions immoral – at least so long as the self-interest was not the only motivation. Thus, the use of self-interest, and appeal thereto in motivating action, became an expected and legitimate part of Realism for HMI.

In practice, this attitude was clearly demonstrated by the former US Ambassador to the UN, Samantha Power, in her 2013 argument for US intervention in Syria. Power, one of the most vocal proponents of HMI began her argument first by appeal to the US state interests, and only arrived at the moral justifications later.

> **Syria is important because it lies at the heart of a region critical to U.S. security, a region that is home to friends and partners and one of our closest allies.** It is important because the Syrian regime possesses stores of chemical weapons that they have recently used on a large scale and that we cannot allow to fall into terrorists' hands.[165]

Third, Niebuhr argued that all exercise of power was morally dangerous, in that it ran the risk of immoral aims or of self-aggrandizement in an unacceptably idealistic way of nationalistic

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[163] *Ibid.*

[164] *Ibid.*

[165] Power, Samantha. Speech to the Center for American Progress. September 6, 2013. https://www.washingtonpost.com/news/worldviews/wp/2013/09/07/samantha-powers-case-for-striking-syria/?utm_term=.e7b7b89abde4 Accessed on 12/23/16. Emphasis added.

Messianism.[166] Yet, despite the moral dangers, he believed that Christians are obligated to actively work for progressive social causes, and for the realization of justice and righteousness. One could not, however, take refuge in the moral innocence that comes from no meaningful action at all, and therefore one must risk one's purity in the course of defending freedom from tyranny.[167] This essentially resulted in the validation of the doctrine of dirty hands, whereby the moral goal of opposing objective evil justifies actions that include immoral means and outcomes.[168] Hauerwas sums up Niebuhr's idea as, "if you desire justice, you had better be ready to kill someone along the way."[169] The doctrine of dirty hands is here justified by the imperative found in moral absolutism, where the failure to act does not merely make one immoral; the failure to oppose evil makes one a moral monster. Hence, to act imperfectly is preferable to failing to act.

Finally, while the idealist position saw the fight against evil as an activity to be completed and a problem to be ultimately resolved, Niebuhr's position on the impossibility of actually attaining the *Civitas Dei*, turned the end-driven idealism into a process-driven Realism. The resulting implication is a state of perpetual war, because the objective evil is not subject to permanent eradication. On the other hand, the Realism of Niebuhr also set new limits for the justifiable causes of action, so that a mere political deviation from the ideal was no longer sufficient for HMI. Instead, the only justifiable cause for HMI became objective evil, as demonstrated by gross human rights violations (e.g. genocide).

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[166] Niebuhr, Reinhold. *The Nature and Destiny of Man: A Christian Interpretation.* Vol. 2. 1943. Louisville: Westminster John Knox Press, 1996. Pp. 32, 42.
[167] McClay, Wilfred M. "Obama's Favorite Theologian? A Short Course on Reinhold Niebuhr."
[168] *Ibid.*
[169] Elie, Paul. "A Man for All Reasons." The Atlantic. November 2007.
https://www.theatlantic.com/magazine/archive/2007/11/a-man-for-all-reasons/306337/ Accessed on 1/9/17.

Niebuhr's position is the *de facto* HMI position. While his ideas have also been used (or abused) by the idealists, the combination of moral absolutism, coupled with the realities of self-interested action and the moral necessity to act against objective evil – fully conscious of the reality of dirty hands – have become the staple of the HMI position. Perhaps the best example of this position in practice can be seen in Samantha Power, and particularly her arguments for constant global intervention.

The idealist and Realist positions seem to actually represent two separate paradigms, with the Realist position as HMI proper. However, if the causes for intervention are expanded beyond objective evil, the result turns into the idealist position pursuing an ideal state of the world. This leads to intervention justifications not on the grounds of human rights, but on the grounds of deviation from ideal forms – i.e. political, religious, or other differences between the intervening power and targeted state. For the purposes of this analysis, the relevant issues will be constrained to the standard Niebuhrian HMI position, with only the more extreme causes justifying action.

The final point of the internal HMI paradigm structure is a teleological notion of progress, as directed at a goal. This teleology requires one to believe that, or believe as if, the moral state of humanity is one of continuous progress by improvement. Kant argued:

> I base my argument on the inborn duty of influencing posteriority in such a way, that it will make constant progress (and I must thus assume that progress is possible), and that this duty may be rightfully handed down from one member of the series to the next. History may well give rise to endless doubts about my hopes… But so long as they do not have the force of certainty, I cannot exchange my duty.[170]

This teleological argument is important, because it provides a descriptive element to the HMI paradigm as a whole, as well as a position by which moral absolutism judges the failure to

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[170] *Ibid.*

act against objective evil from a higher, teleological perspective as failing to be human. As a descriptive element (axiom), it posits certain systems as more morally advanced than others, and thus further down the "evolutionary" track, closer to the goal, and morally superior. The teleological progress of a state is relevant only for the purposes of its projection of power in defense of human rights – not in its political forms.

Thus far, the HMI paradigm can be viewed as a moral-teleological superstructure, premised on moral universalism, guided by teleological progress, and directed by the pursuit of moral action intended to provide objective improvement by protection of human rights. Such protection represents a perennial project, which is a moral obligation to oppose objective evil of gross human rights violations.

This description of the HMI paradigm captures the internal logic of what the paradigm is. Next, the question of paradigm methodology (what the paradigm does) must be explored. As noted in the previous chapter, the paradigm comes not only with a descriptive *Weltanschauung*, but also with the full panoply of methodological tools for puzzle-solving, serving to distinguish legitimate procedures and solutions from illegitimate ones. The puzzle of the HMI paradigm is the attainment of peace in the framework of cosmopolitanism, grounded in axioms of human rights, lawful states, and international relations. For Niebuhr, the puzzle does not admit of a final solution, but is instead a process of striving in the direction of moral good.

Applied Methodology and Weltanschauung – External Paradigm Structure

The HMI paradigm methodology is aimed at the cessation and/or prevention of domestic human rights abuses by a state, and the restoration of stability to the state and region, by military

means (specifically, war). The military nature of the HMI methodology is the crucial issue. Non-military means of pursuing human rights protection (e.g. sanctions, diplomacy, etc.) is beyond the scope of the present analysis, and the anomalies of the next chapter are unrelated to any but explicitly military means of attaining the HMI goal. Non-military paths might be classified as humanitarian interventions, or human rights interventions, but lack the core component at stake – namely the use of war as a means of attaining its goals.

Notably, UN Peacekeeping Missions generally do not qualify as HMI, because their very goals are sufficiently different. In effect, Peacekeeping missions are interventions designed to buy time for political efforts to gain ground. The missions, although carried out by soldiers, are not HMI because their methodology excludes war *per se*. At best, Peacekeeping missions are authorized to fight in self-defense, but not necessarily in defense of the targeted population. The UN Peacekeeping mission in Bosnia is a good example of the passive role of Peacekeepers and the difference between HMI and Peacekeeping. The Peacekeepers looked on for 4 years as concentration camps and rape camps continued to operate, some 200,000 civilians were deliberately killed, and Sarajevo endured the longest military siege in modern history. The difference between the two can also be noted by comparing the 1999 HMI in Serbia-Kosovo (where the methodology involved an act of war against the sovereign state of Serbia), and the 1994 French creation of the Turquoise Zone in Rwanda – which did not militarily engage the Hutu government forces, and in fact allowed a number of genocide perpetrators to escape.

The issue of state stability is important because it represents the practical means of preventing further human rights violations. To be stable, for a state, means to provide a minimum level of human rights protection, so that civil wars are avoided and genocide/ethnic cleansing is off the table. Fukuyama and Kant had argued that democracy and republicanism, respectively,

are the means of attaining a long-lasting stability, and preventing human rights violations. However, the Niebuhrian position and the HMI are unconcerned with the political form, as long as human rights are respected. On this point, there is also an overlap with Rawls, who argues that decent societies of (nearly) any political form can provide the minimal justice basis that respects the core aspects of human rights, which would exempt them from HMI.[171]

In addition to the immediate HMI goals, the military methods inherent in HMI are intended to act as a deterrent on states contemplating human rights abuses. Thus, stability is not just a question of the immediate stability of the state violating human rights, it is a matter of long-term regional and global stability by disincentivizing human rights abuses – which are destabilizing factors do the domestic, regional, and international levels. Additionally, this disincentivizing is seen as a way of applying indirect pressure on the states that are situated near the limit of minimal human rights protection, as a way of putting them on notice, should they fail to uphold those rights. In her appeal for intervention in Syria, Power argued directly to these points:

> If there are more chemical attacks, we will see an inevitable spike in the flow of refugees on top of the already two million in the region… Half of Syria's refugees are children, and we know what can happen to children who grow to adulthood without hope or opportunity in refugee camps. The camps become fertile recruiting grounds for violent extremists... And beyond Syria, if a violation of a universal agreement to ban chemical weapons is not met with the meaningful response, other regimes will seek to acquire or use them to protect or extend their power, increasing risks to American troops in the future.[172]

As concerns the cessation and/or prevention of human rights abuses, the HMI paradigm posits such abuses primarily as gross human rights violations, namely genocide and/or ethnic cleansing. The goal of intervention is, therefore, simply to stop the killing, by forcing the

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[171] Rawls, John. *The Law of Peoples.* Cambridge: Harvard University Press, 1999. Pp. 64-7.
[172] Power, Samantha. Speech to the Center for American Progress.

murderous side to contend with the overwhelming military superiority of the intervening force.

Once the killing has been stopped, the mission of the intervening power is complete. The crucial

assumption in the earlier part of the HMI paradigm was that the targeted state, faced with

overwhelming superior force, will refrain from all acts of human rights violation, bringing

stability back to the state and region. Thus, the tactical approach of the military method is, as

Walzer argues, "in and quickly out." The argument is again demonstrated by Power:

> United States possesses unique capabilities to carry out a **swift, limited and proportionate strike** so as to prevent and deter future use of chemical weapons... Any military action will be a meaningful, time-limited response to deter the regime from using chemical weapons again and to degrade its ability to do so... By degrading Assad's capacity to deliver chemical weapons, we will also degrade his ability to strike at civilian populations by conventional means.[173]

A common issue in the HMI justification is the trigger point. While the "gross human

rights violations" remain a common thread amongst various theorists, the exact line of

demarcation remains contentious. More importantly, in the wake of 9/11, the scope of violations

used as HMI justifications has become far broader than the earlier "genocide and ethnic

cleansing" requirements. Thus, the US invasions of Afghanistan and Iraq are now commonly

taken as HMIs, as are the civil wars such as those of Libya and Syria. While none of the

aforementioned cases met the threshold of genocide or ethnic cleansing, they are all considered

as justified under the contemporary reading of HMI, especially the cases of Libya and Syria.[174]

The expansion of human rights violations that count for HMI purposes poses a threat of shifting

the paradigm from realist HMI to the idealistically-driven *Civitas Dei* model.

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[173] *Ibid.* Emphasis added.
[174] While the Syrian intervention has the official designation as intervention against ISIS (where at least the ethnic cleansing charge is clearly present), the initial point of intervention was against the Assad regime. The subsequent declaration of the Assad regime as illegitimate, by the intervening powers, adds additional weight to the problem of official designation of the Syrian intervention as against ISIS alone.

The act of military intervention, as war, carries a number of Just War Theory moral constraints on action. Within the Just War Theory, the distinction between morally/legally legitimate and illegitimate acts – whether the decision to engage in war (*Jus ad Bellum*), legal/moral distinction of whom the soldiers may or may not kill (*Jus in Bello*), or the conditions for the conclusion of a war (*Jus post Bellum*), is at the heart of the laws and ethics of war. The analysis will primarily consider the *probability of success* requirement of *Jus ad Bellum*, with several additional points in the *Jus in Bello* and *Jus post Bellum* sections of the Just War theory.

The *Jus ad Bellum* requirement of *probability of success* simply states that the pursuit of war is illegitimate (immoral) so long as success is highly/unreasonably unlikely. This requirement seeks to limit unnecessary bloodshed on both sides, so long as the final result will not be altered by such efforts. However, the improbable victories of Russians over Nazis, Afghans over Soviets, and Bosnians over Serbs and Croats, all point to the difficulty of quantifying this requirement. In the next chapter, this requirement will focus on the question of the ability of the military method to achieve the political aims of HMI – a slightly different reading of the requirement, but one grounded in its underlying concerns.

The relevant *Jus in Bello* principles are concerned with *discrimination* (distinguishing legitimate from illegitimate targets of military force), *proportionality* (that the use of force is proportional to the goal to be achieved), and *reprisals* (whether the reciprocal use of force against otherwise illegitimate targets is permissible as a punitive measure, if it is intended to deter further indiscriminate use of force by the opposing side). The HMI paradigm adopts the *discrimination* requirement, with the usual *doctrine of double effect* caveats in line with the Kantian position. However, it seems to take a utilitarian position on the other two principles. Thus, the *proportionality* requirement is often ignored by disproportionate use of force in the

short term, but claims to be justified in such actions by the need to act swiftly to protect the vulnerable populations. The issue of *reprisals* arises in the idea that the use of force against the general population of the offending state will serve to apply additional pressure for the regime to capitulate, and thus as incentive for the creation of a more stable regime afterwards.

The *Jus post Bellum* requirements of the HMI paradigm have already been noted as cessation of gross human rights abuses, stabilization of the state and region, and teleological progress towards human rights respect and enforcement. Thus, the moral ends are the basis upon which the *Jus ad Bellum* and *Jus in Bello* requirements are construed within the HMI paradigm.

The HMI paradigm thus provides four distinct elements for consideration, starting with the axiomatic superstructure of categorical moral absolutism and teleology. This produces the political ideology of cosmopolitanism, aiming for the pursuit of moral action in the universal protection of human rights. The use of military methodology is the way to enforce the political ideology and pursue teleologically-directed moral progress. As a result, the HMI paradigm vision of the world is one of moral absolutism, which stands in perpetual readiness and wages war against the objective evil manifested in gross human rights violations. It is a vision of a world embroiled in endless conflict between good and evil, without end. Yet, it is also a vision of a world where the presence of power provides the moral impetus to fight for justice and freedom against tyranny, in terms of protection of human rights, and is willing to engage in such action despite the moral dangers that necessarily accompany such action.

Much of this framework can be found in Samantha Power's arguments for constant global intervention.[175] The fact that Power has represented the US as the Ambassador to the UN

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

during the period of at least two interventions, and has forcefully argued for regime change in

Syria, makes her views rather more relevant than that of an average philosopher, and makes her

into something of a poster child for the HMI paradigm.

With the basic paradigm framework out of the way, the analysis can now consider the in-

depth development and implications of the paradigm as a way to flesh out the axiomatic,

theoretical, and applied elements, before turning to anomalies.

Developments and Implications

In considering the deontic axiom of HMI, providing the paradigm with moral absolutism,

a number of theoretical and applied HMI notions emerge, especially in terms of Kantian

lawfulness of a state.[176] This question seeks to entirely deny the existence of sovereignty to states

deemed morally illegitimate, by claiming that the state in question lacks a crucially defining

factor of statehood (i.e. human rights compliance). The claim disqualifies the offending state

from statehood and the sovereign rights, leaving only the human rights of individuals as citizens

of the world as a concern. This perspective has already been endorsed within the UN, though not

as a UNSC measure of international law.

Endorsement without legal measure, Kelsen argues, is the result of the difference in legal

and political frameworks, where some disputes are (supposedly) inherently outside the

jurisdiction of international law by their political and self-interested nature, and are thus not

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[176] Although the argument works best with genocidal regimes, the retroactive use of HMI label for Afghanistan and Iraq, and the preponderance of agreement on such justifications, indicates that the former genocidal limits are becoming much broader in scope. While they may not yet condemn functional dictatorial states, the rhetoric has been ramping up since the 2000s, and the idealist faction is pushing for the recreation of the world in our – i.e. US – image.

justiciable.[177] This means that the political attitude of a state may endorse certain ideas, but cannot translate them into an international legal framework, because of the absence of requisite supranational system to regulate and enforce such measures. For Kelsen, as for the HMI paradigm, this represents an obstacle to be overcome by the creation of a federation of states (i.e. cosmopolitanism), which culminates in the creation of an international court.[178] In order to pursue such unification efforts, Kelsen is again in line with the HMI paradigm when he argues that the world federal state requires equalizing the cultural differences of various member states, by political and educational ideological efforts.[179] Such homogeneity would then, theoretically, allow for the political positions of the federation states to become positions of international law, by both normalizing the idea across the international lines, as well as providing a supranational (i.e. federation) and impartial legal system (based on the HMI morality) to enforce the position internationally – complete with its own forceful means of enforcement.

As an example of both the political/legal difference, and the attempt to normalize the HMI-based political (moral) position, the Philippines delegation argued in regards to the 2004 Sudan crisis, that:

> Sovereignty also entails the responsibility of a State to protect its people. If it is unable or unwilling to do so, the international community has the responsibility to help that State achieve such capacity and such will and, in extreme necessity, to assume such responsibility itself.[180]

The language used is reflective of the R2P phrasing, in that the human rights violations do not merely grant the right to intervene, but actually create a moral and legal obligation to do so.

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[177] Kelsen, Hans. *peace Through Law.* Chapel Hill: University of North Carolina Press, 1944. Pg. 23.
[178] *Ibid*. Pp. 4-33
[179] *Ibid*. Pg. 12
[180] UNSC 5015th meeting, S/VP.5015, July 30, 2004, Pp. 10-11.

The questioning of the limits of sovereignty, or rather the prerequisites of sovereignty, is an old argument, and its essence is perhaps best described by Mencius in his conversation with King Hsüan:

> King Hsüan of Ch'i asked, 'Is it true that T'ang banished Chieh and King Wu marched against Tchou?'
> 'It is so recorded,' answered Mencius.
> 'Is regicide permissible?'
> 'He who mutilates benevolence is a mutilator; he who cripples rightness is a crippler; and a man who is both a mutilator and a crippler is an "outcast". I have heard of the punishment of the "outcast Tchou", but I have not heard of any regicide.'[181]

For Mencius, the execution of king Tchou is justified, because he had failed to embody and act on the qualities that bestow sovereignty on a sovereign, and had chosen to act in a way that ran contrary to such values. D. C. Lau argues, "That [Tchou] happens to be an emperor makes no difference. Indeed it makes the situation worse."[182] Mencius's argument is a clear demonstration of the principle of questioning right to sovereignty on moral grounds. Though his point of reference is found in the person of the emperor rather than state itself, the same principle applies, making sovereignty and its attendant rights dependent on an external moral standard – as per the moral absolutism of the HMI paradigm.

This position is embodied in the deontic principle of human rights compliance as the basis of statehood,[183] and treats states with gross human rights violations as rogue states without proper governance. The principle has been used on several occasions to delegitimize a standing government of a state perceived to have broken some crucial rule of HMI morality – e.g. the US delegitimization of the Taliban regime in 2001, the Iraqi Ba'ath party in 2003, and the Syrian

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[181] Mencius. *Mencius*. Ed, Tr. D.C. Lau. New York: Penguin Books, 2004. Pg. 23.
[182] *Ibid*. Pg. xxxix.
[183] Buchanan, Allen. *Justice, Legitimacy, and Self Determination*. Pg.1. AND
Orend, Brian. *The Morality of War*. 2nd ed. Peterborough: Broadview Press, 2013. Pg. 35.

regime in 2013. While it has been argued that the Iraqi invasion was justified by Iraq breaking several UN resolutions, the HMI justification is claimed solely on the human rights violations against the Iraqi Kurds, and several other minorities – such as the Marsh Arabs. Similarly, the attempted intervention in Syria was initially premised on chemical weapons use – yet the HMI proponents argued for justification on the grounds of human rights violations, not international law.

The critical point of the sovereignty question is that the notion of governance is posited in a binary fashion, with a morally objective clear right and wrong way to govern (in terms of protecting human rights) – resulting in the idea of morally lawful and unlawful states. So long as a state is measured to be on the lawful side through its human rights protections – or rather failure to violate core human rights – it has all the rights of a sovereign state. However, if the state is measured to be on the other side, it is not a true state, and thus has no rights to violate. In his 2004 "The Changing Nature of Sovereignty" Haass argues:

> One of the most significant developments over the past decades [is] the emerging global consensus that sovereignty is not a blank check. Rather, sovereign status is contingent on the fulfilment by each state of certain fundamental obligations, both to its own citizens and the international community. When a regime fails to live up to these responsibilities or abuses its prerogatives, is risks forfeiting its sovereign privileges including, in extreme cases, its immunity from armed intervention.[184]

Haass deftly redefines the entire extant international law (by treaty), by changing state *rights* into state *privileges*. The important distinction, especially in deontic ethics, is that, whereas rights create a corresponding moral obligation in others to do everything in their power to protect the right, there is no such corresponding obligation towards privileges. This recasting

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[184] Haass, Richard N. "The Changing Nature of Sovereignty." Speech given to the School of Foreign Service, Georgetown University, Washington. D.C., January 14, 2003.

of sovereign state rights as privileges may be the most intellectually honest type of assessment in considering the HMI as a paradigm. Orend follows this line of argument, when he asks:

> Why shower national governments with rights, if these governments lack basic moral legitimacy? Indeed, it seems paradoxical to suggest that an immoral form of governance has a moral right to arm and defend itself. **Why privilege the governance of a nation-state if the nation-state doesn't deserve it? The only way it deserves it is by earning it through its respect for, and empowerment of, the human rights of its own citizens and those of others.**[185]

This reliance on the axiomatic role of morality-based state legitimacy (Kant's "lawfulness") is also used to support the military methodology of HMI, on moral grounds, and backed by both deontic and utilitarian arguments. The confluence of utilitarian and deontic theories, despite the difference in justifications, has also allowed for a broader scope of dialectic engagement of HMI proponents with intervention detractors – essentially switching between ethical theories based on the strength of the argument. For the utilitarian position, the test of legitimacy is the "enlightenment" of the proposed state – here demonstrated by its human rights enforcement and protection. The utilitarian aspect of this argument lies in the notion that the harm of military interference is easily outweighed by the good to be achieved through later moral improvement of the state in question. The more contemporary position, like that of Rawls, posits certain "universal" minimums in the "rights" of the citizens as prerequisites to statehood, as an indication of utilitarian functionality of the state in the international sphere.[186]

The Kantian perspective, also used by Niebuhr, argues for the universal protection of human rights; obliging lawful states to protect the citizens of unlawful states from gross human rights violations, by any means necessary. By relying on the deontic axiom, HMI considers it a moral obligation that all lawful states treat all people as possessing the same rights – whether

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[185] Orend, Brian. *The Morality of War.* Pg. 39. Emphasis added
[186] Rawls, John. *The Law of Peoples.* Pp. 62-7.

they be citizens of their own or foreign states, since all humans are *citizens of the world*. As Wolff argued, such moral obligations toward other exist because national belonging does not destroy the "universal obligation of all towards all." Niebuhr similarly noted that Christians have an obligation to work for the realization of justice and righteousness – without limit. This understanding creates the theoretical and political assumption that human rights are greater than state sovereignty in the contemporary international legal order.[187]

Here, the distinction between rights and obligations becomes crucial. A simple way to grasp the distinction is by viewing rights as permissible actions, while obligations are mandatory. In the former case, the choice to act or not act carries no moral weight, and there is no moral culpability in either choice. In the latter case, the choice to act or not act has moral gravity, and one is morally culpable for failing to carry out one's obligation. All obligations thus imply rights – as one cannot be obliged in things one does not have a right to. Moral culpability may also carry a legal culpability, making the failure to meet one's obligations punishable by law. This is the case with HMI and the notion of state sovereignty as contingent on human rights protection; states that do not meet their obligations of protecting human rights become not merely morally culpable, but also legally culpable – and thus the military intervention becomes justified, and even obligatory. For this reason, the position advanced by the R2P has been something of a game-changer. Instead of speaking of the right of a third party to intervene in cases of gross human rights violations, the R2P posits a responsibility (i.e. an obligation) on the international community to do so. This obligation carries its own moral culpability in failing to act, while also

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[187] Zolo, Danilo. *Victor's Justice*. Pg. 56.

positing the right to intervene as a given – essentially moving well beyond the question of the legitimacy of interventions.

Once the paradigm posits that the domestic human rights of one's own citizens are universal,[188] and that the same responsibility to protect the rights of one's domestic population necessarily extrapolates to protection of human rights of all people, everywhere, the basis for the military methodology emerges. In the same way that a lawful state is obliged to enforce human rights of its own citizens, even by force, so the lawful state is obliged to protect the rights of all people, as citizens of the world, even by force. This follows from the idea that the proper conception of human rights cannot be limited by artificial borders, any more than by religious or racial labels. Buchanan summarizes the notion as the idea that, just as domestic law has shifted towards moral justice, so too should international law.[189] The fact that some states have failed to shift their domestic law towards moral justice becomes the basis of international law shifting towards moral justice on behalf of the foreign populations of such states.

For authors like Buchannan, who view democratization in the same light as Kant and Fukuyama (and other idealists), this also justifies democratization by force. While the realist position rejects democratization as a silver bullet, it commonly takes regime change as a similarly effective strategy and a standard HMI goal. Samantha Power argued that:

> By degrading Assad's capacity to deliver chemical weapons, we will also degrade his ability to strike at civilian populations by conventional means...In addition, this operation, **combined with ongoing efforts to upgrade the military capabilities of the moderate opposition**, should reduce the regime's faith that they can kill their way to victory... In this instance, **the use of limited military force can strengthen our diplomacy** and energize the efforts by the U.N. and others to achieve a negotiated settlement to the underlying conflict.[190]

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[188] This argument is made by Kant, Singer, and to a lesser extent Rawls.
[189] Buchanan, Allan. *Justice, Legitimacy, and Self-Determination.* Pg. 82.
[190] Power, Samantha. Speech to the Center for American Progress. Emphasis added.

Though arguing for "diplomacy," the combination of supporting anti-government rebels (with an explicit intention to continue doing so), along with the degradation of government power, leads to the necessary conclusion of US intervention in Syria seeking regime change. The later diplomatic attempts to end the conflict, where the US insisted on the ousting of the Assad regime as a starting point to negotiations, demonstrates the point.

From the Kantian perspective, and embedded in the HMI paradigm, the act of moral extrapolation (universalizing one's own moral position) has been shown to be necessary. For rights to be rights, they must be logically necessary and universal. If they are rights, then their protection must also be a moral obligation; if the moral obligation exists, then artificial labels are irrelevant, and inherently override any concern of sovereignty. As Terry Nardin argues:

> This [sovereignty as standard point of reference in international law] does not mean that sovereignty is absolute, that the interests of states trump all moral considerations, or that governments are not obligated to respect human rights.[191] The moral logic of humanitarian intervention is that it denies governments the right to assert their sovereignty as a cover for grave crimes against their own people.[192] ...only morally legitimate states have rights, and international politics gives way to transnational or supranational modes of global governance.[193]

What these attitudes imply is the idea of a universal series of objective norms, shared by all people – moral norms for Kant, quantifiable norms for Mill, and moral absolutes for the HMI. If these are taken as objective and universal, then they create a universal objective standard.

Cosmopolitanism serves as a unifying theme of the HMI paradigm. It creates the highest point of theoretical HMI development from its axiomatic paradigm superstructure. On the

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[191] Nardin, Terry. "Humanitarian Imperialism." 21-26. In *Ethics and International Affairs.* Vol. 19, Issue 2, September 2005. Pp. 22-23. Brackets added.
[192] *Ibid*. Pg. 23.
[193] *Ibid*.

axiomatic and theoretical grounds, it also lays the functional foundation for the applied

methodology of the HMI paradigm – i.e. the justification for war. Zolo argues that:

> The humanitarian ideology, if taken at all seriously, requires that the current international order, until now based on the particularism of intergovernmental relations, should be transformed into a 'global humanitarian regime'. It implies, as its ultimate goal, a sort of *civitas maxima* which is politically unified and, in Habermas's Kantian aspiration, informed by a 'cosmopolitan law' (*Weltbürgerrecht*) which identifies as subjects of international law all human individuals, rather than states or state alone.[194]

 Just as the idea of private morality required a leap to political morality to make moral

sense by creating a moral enforcement system, so too the notion of domestic cosmopolitanism

must transcend the local limitations of a state and become global cosmopolitanism, if it is to

provide the moral enforcement of rights and obligations. In the case of the Categorical

Imperative, the movement was from an individual to the state/society. In the case of

cosmopolitanism, the move is from a state/society to the world. The result is that the rights of

states – namely autonomy and sovereignty – lose their supreme status, and are replaced with

universal moral rights – i.e. cosmopolitan law. Thus, the cosmopolitan argument of HMI seeks to

overturn the entirety of the structure of international law and relations.

The theoretical aspect of the Cosmopolitan moral position leads to the applied idea of

Cosmopolitan Law, which is intended to serve as the third sphere of law. The first two spheres

are constitutional law (governing domestic policy), and international law (governing foreign

relations), and are the basic and necessary types of law that arise for any community. These first

two spheres are predicated on individuals transcending the state of nature, and joining the

national *Leviathan* – which delineates such groups into states, and guards their distinctions by

turning the focus solely on the right of the state. Differentiating itself from the other two spheres,

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[194] Zolo, Danilo. *Victor's Justice*. Pg. 57.

Cosmopolitan Law holds that both individuals and states have rights, but that individuals have them by virtue of being *citizens of the world*, rather than as citizens of particular states. States, on the other hand, have rights insofar as they protect human rights. This idea squares fully with the HMI moral axiom.

The result is unconditional human rights, while the state rights are provisional – dependent on the moral status of the state as demonstrated by its human rights protection – and thus properly understood as privileges. As a result of this reordering of rights priorities, Cosmopolitan law overrides the constitutional and international law spheres. It rejects the status of a state as the paragon of law; domestically as the sole source of authority and internationally as the basis for interaction and creation of law.[195] While the constitutional and international spheres are the necessary building blocks for taking humanity out of the initial state of nature, they serve only as a ladder to scale the initial edifice, and are then to be discarded.[196]

This argument ultimately leads to the considerations, protection, and enforcement of human rights as the primary responsibility of every state (not merely a right). While this position is somewhat ordinary in the domestic sphere, the exceptional nature of Cosmopolitanism and HMI is that it rejects the domestic/foreign distinction altogether, by understanding the notion of human rights as universal rights of "citizens of the world," whose content cannot be abrogated by incidental qualities of geography or ethnicity. That is to say, human rights are (and must be) above state rights.

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[195] Buchanan, Allan. *Justice, Legitimacy and Self-Determination*. Pp. 69-70.
[196] *Ibid.* Pg. 54.

This position may seem somewhat farfetched, yet it has been used both theoretically (by authors like Ignatieff) and practically, particularly over the past 25 years. The notion of unilaterally policing the international community for humanitarian reasons, as in the case of the US, presents us with a rough form of cosmopolitanism and HMI in practice. Here, Power's argument demonstrates how the moral absolutism of HMI overrides international law:

> Russia, often backed by China, has blocked every relevant action in the Security Council, even mild condemnations of the use of chemical weapons that did [not] ascribe blame to any particular party. In Assad's cost-benefit calculus, he must have weighed the military benefits of using this hideous weapon against the recognition that he could get away with it because Russia would have Syria's back in the Security Council.[197]

There is also a strictly utilitarian side to the cosmopolitan argument. Unlike the Kantian position, utilitarian argument rejects the notion of human rights,[198] and focuses on the consequences alone. The Kantian position built an intricate framework of rights and obligations, starting from the individual, and moving through the state, and international realms. Utilitarians have a far simpler task: maximize good and minimize harm, and the consequences of one's action must be weighed against all who are affected. This consideration, as Singer argues, cannot magically stop at the imaginary national, ethnic, or any other lines.[199] So long as the goal is the optimization of happiness, it is everybody's happiness that must count equally. At the same time, utilitarianism is rarely wed to ideological principles; utilizing them where it can, discarding them when they become sub-optimal. That is to say, the utilitarian perspective on sovereignty and the use of war seems no different than their position on human rights, and an international military approach is not problematic, as long as it is seen as the most promising action in terms of

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[197] Power, Samantha. Speech to the Center for American Progress. Brackets mine, to account for miscommunication.

[198] Jeremy Bentham famously called the idea of natural law and natural rights "nonsense upon stilts."

[199] Singer, Peter. "Famine, Affluence, and Morality" 105-117 and "The Singer Solution to World Poverty" 118-124. In *Writings on an Ethical Life,* by Peter Singer. New York: The Ecco Press, 2000.

maximization of happiness. Again, these arguments present a tool for the HMI justification, but are not crucial to the paradigm itself.

Three considerations provide both the HMI paradigmatic basis for war, and represent major positions of the various authors and international actors in justifying HMI action. All three stem from a concern for security and stability on an international stage. While these justifications may be presented as issues of stability, the root cause of HMI justification is always the moral absolutism regarding human rights, and the corresponding obligation to protect them – in this case by military means. The appeal to stability is made because of the noted causal relation between increased destabilization and increased human rights violations. When a state engages in gross human rights violations, a number of issues arise locally and ultimately globally, which are then taken to justify war. These justifications play the role of identifying additional threats to the sanctity of human rights, and indicate an increase in the scope of human rights violations – if the original violations are not forcefully stopped. While some of these considerations also tie into UN law, the HMI justifies action on the grounds of moral judgment, not international law. For example, the Iraqi violation of several UN resolutions may have justified the 2003 invasion on legal grounds, but the HMI justification was based solely on the human rights violations.

The first of the considerations is regional/global stability as the direct consequence of human rights violations. These problems take the form of population displacement – as internally displaced persons (IDPs) or as international refugees; local and regional political upheavals; and regional/global economic instability. The sudden influx of a homeless and poor into the surrounding states leads to political and economic instability in the region and abroad. A good example of this problem is the ongoing Syrian conflict, with more than 11 million displaced

individuals, of whom nearly 5 million are foreign refugees.[200] Additionally, the influx of Syrian and other refugees, especially in Europe, has resulted in a number of economic issues for the host nations, but more importantly, has also resulted in rather severe political upheaval, with right-wing parties (even those of fairly open fascistic persuasion) gaining marked political support.[201] Instability also produces a disruption in local and regional trade. Given the globalized nature of trade, and vested state interests in trade and certain resources, a disruption in critical goods supply can have serious consequences regionally as well as globally. This, in turn, creates greater economic instability through rising prices, shortages, and domestic disturbances in other states. The disruption of Gaziprom natural gas supply to Europe, as a result of Russian-Ukrainian-rebel conflict, particularly as Europe was hit with some of the coldest winters on record, is a good example of such economic problems.[202]

The second consideration is the hypothetical military threat to the region. A state violating the human rights domestically, is unlikely to hesitate in exporting the same attitudes to their neighbors. That is to say, a state willing to violate the human rights of its own citizens is one that is *ipso facto* ready to do so to the citizens of other states – the only deterrents being state interests and physical ability (factors that tend decrease over time). For example, under Saddam's control, Iraq used rather severe oppressive methods on its own populace, and when the opportunity presented itself, it tried to export the same human rights violations onto Iran, and

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[200] Syrian Refugees. *A Snapshot of the Crisis - in the Middle East and Europe.* http://syrianrefugees.eu/ Accessed on 11/7/16.

[201] E.g. Greece, Germany, France, UK, Netherlands, etc.

[202] Assenova, Margarita. *Russia-Ukraine War's Impact on European Energy—A Net Assessment of Developments in Europe's Energy Security Strategy Since the Start of 2014*. Eurasia Daily Monitor; Vol 11, Issue 185. October 20, 2014. https://jamestown.org/program/russia-ukraine-wars-impact-on-european-energy-a-net-assessment-of-developments-in-europes-energy-security-strategy-since-the-start-of-2014/ Accessed on 1/3/17.

then Kuwait. Taliban's oppressive rule in Afghanistan immediately sought to expand into Pakistan, or at least the immediately neighboring region of Waziristan.

The third consideration is the threat that the violator state will descend towards state failure, and thus become a hotbed for international terrorism. Bellamy argues that "Afghanistan demonstrates all too clearly the linkage between terrorism and state failure. The strategic imperative to prevent terrorism therefore entails a humanitarian imperative to prevent state failure."[203] Given the regional and global destabilization effects of terrorism, and the proliferation of terrorist groups in failed or failing states, the continued domestic stability of a state is paramount as a preventative step against the threat of terrorism.

In light of these destabilizing consequences of gross domestic human rights violations, any state willing to engage in such activities is understood to pose a *de facto* risk to the international stability and peace (much as Kant had argued in regards to states in the state of nature). Therefore, since the offending state poses an international threat, military action against such a state is justified or even obligatory. For the HMI paradigm, the primary justification remains the violations of human rights. However, the three noted issues are taken as a strong threat to human rights in the targeted state and beyond, produced by the existing deterioration of the human rights situation. Thus, though commonly cited publicly, these justifications are merely descriptions for greater and broader human rights violations – and on those grounds alone the paradigm justifies HMI.

The three noted considerations are commonly intertwined. Thus, the justification for pursuing an HMI generally rests on multiple arguments regarding the effects of the human rights

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[203] Bellamy, Alex J. "Responsibility to Protect or Trojan Horse?" Pg. 37.

violation of a state on the local and global community. This allows the HMI position to be presented more forcefully, using moral outrage, economic concerns, military threat, and the specter of terrorism as a complex justification for action. On the other hand, it presents intervention as a means of rectifying the manifold problems in one stroke.

As an example, the Syrian conflicts (both in terms of domestic war human rights abuses and refugees) has caused rather severe domestic disruptions in other regional states, such as Turkey, Jordan, Lebanon, and Iraq. This has included the economic hardships of housing and supporting the masses of refugees, and also terrorist attacks carried out by either ISIS or emboldened Kurdish paramilitary forces in Turkey. Hence, Turkey (amongst other states) has a vested interest in the speedy resolution to the various conflicts in Syria, along with the moral justification of preventing human rights violations at home and abroad. Thus, Turkey may morally engage in an HMI against Syria for the good of the Syrian people, the economic good and safety of their own citizens, the international economic good, and the domestic and international good of suppressing terrorism. By HMI standards, these considerations only play a role insofar as they are indicators of human rights violations, both presently and in the future.

The last point of the paradigm relates back to its vision of the world. For HMI, when the axiomatic truth of the paradigm is coupled with morality, the resulting combination becomes a position of moral absolutism. As a result, any competing claims or criticisms must be immoral – as they criticize absolute morality. This makes the critics more than merely immoral in their own beliefs. It makes them moral monsters for actively opposing morality of others. Hence, not only is the criticism dismissed, the critics are taken to support human rights violations and, as per Godwin's Law, the Hitler and Nazi analogies abound.

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Part of what fuels the paradigm's moral absolutism is the background of Manichean ideology, which inserted itself into the West through the writings of St. Augustine. The full expression of the binary perspective historically came into its own with Pope Urban II's plenary indulgence for future sins granted to all who joined the Crusade[204] (which included murder, rape, genocide, cannibalism, etc.). Though the religious connections of Manichaeism were stripped away during the Enlightenment, the binary division remained, as did its ability to absolve one of moral condemnation. Thus, while Kant's ethical position is free from religious claims, it does mirror a part of the Manichean attitude in its rejection of consequences and absolute focus on the intent. Mill's argument for colonizing and enlightening the "barbarians" also follows the same line of reasoning. Consequently, though the religious connection was removed, the attitude remained.

The HMI paradigm holds a similar view, though tempered with Niebuhrian realism. The notions of objective good and evil prevail, moral absolutism splits the world into black and white, and the opposition to objective evil is a moral obligation – dirty hands, and all. Committed HMI adherents can justify to themselves any failure of the paradigm to produce desired results, by arguing to the intent. On these grounds, the human rights violations of the HMI are seen as qualitatively different than those taking place domestically, and are thus generally absolved of moral guilt. Since the intent is the victory of moral ideals over objective evils, any cost – generally paid by the targeted state – is worth it. Consequently, one can see the moral claim of the HMI paradigm as predicated on the teleological presumption of Manichean ideology that forms part of the moral absolutism. This thread is also found in Walzer's position on supreme

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[204] Winks, Robin W. et. al., *A History of Civilization: Prehistory to the Present*. Englewood Cliffs: Prentice Hall, 1992. Pg. 239.

emergencies, where any action – no matter how heinous, destructive, or in violation of human rights – is justified for a state is facing a threat from "evil objectified in the world."[205] Not only does Walzer resort to Manichean language, his conclusions are also in line with the medieval apocalyptic attitudes that condoned wholesale slaughter of those deemed morally evil. Niebuhr's own notion of moral obligation and responsibility to resist evil follow a similar line of reasoning.

Zolo notes that the humanitarian justification is also commonly used to dehumanize the other,[206] and thus allow for their inhuman treatment. If we fight for humanity and human rights, those we fight against must stand against humanity – they are inhuman, or rather bestial and barbaric. This attitude then justifies the use of HMI as war for humanitarian purposes, as no amount of foreseen "collateral damage" justifies non-action. The paradigm's moral absolutism monopolizes humanity and morality for its adherents. This allows for the all too common rush to judgment, willingness to bypass the UN and engage in unilateral action, failure to properly examine the evidence, and even to consider invalid any contradictory evidence. Hence, the unwillingness of the UN to accept the "proof" of the Iraqi threat, justified bypassing the UN. More recently, Samantha Power proclaimed the guilt of the Assad regime for the 2013 chemical attacks in calling for an intervention in Syria,[207] although the experts on the ground strongly believe the rebels were to blame.[208]

What is crucial about the moral absolutism position is that it is not subject to argument or critical examination. As an axiom, it must suppose itself right, and all opposition as inhuman and

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[205] Walzer, Michael. *Just and Unjust Wars.* Pg. 253.
[206] Zolo, Danilo. *Invoking Humanity*. Pp. 38-9.
[207] Power, Samantha. Speech to the Center for American Progress.
[208] BBC. *UN's Del Ponte says evidence Syria rebels 'used sarin.'* May 6, 2013. http://www.bbc.com/news/world-middle-east-22424188 Accessed on 1/25/17.

morally treasonous – and assume ulterior motives behind the refusal to go to war ("freedom-fries"). In confronting a situation the paradigm designates as objective evil, the only options the paradigm can recognize are to condemn or to condone. Condemnation, without accompanying effort to resist that evil, is equivalent to standing aside and allowing evil to prevail. While the consequences of action may be costly, they are seen as irrelevant, because one is facing objective evil. The unwillingness to engage with opposing notions is indicative of the paradigmatic nature of the process at work.

CHAPTER V:

ANOMALIES

Having sufficiently explored the paradigm structure, as well as its historical context and a variety of its implications, the analysis turns to the subject of anomalies of the HMI paradigm. The goal, as noted, is the demonstration of the anomalous results of historical and ongoing HMI use, and leading to the claim of paradigm crisis.

The focal point of this demonstration is HMI use of military methodology – i.e. warfare – as a means of responding to human rights violations by domestic policies of foreign governments. The issue in question is whether the military methodology of HMI is coherently functional for the assigned task. The simplest means of measuring such performance is by examining whether the method achieves the desired goal. That is, whether the results of HMI line up with the goals and justifications of using military force to resolve the human rights issues. Alternately, the question to be answered is whether HMI results in progress towards, or regress away from, the morally teleological endpoint.

Some Reasons for Skepticism

Before the specific anomalies are considered, there is historical reason for skepticism towards the functionality of the HMI paradigm.

In considering the development of modern international law, Zolo argues that the UN was conceived to protect the new world order in the wake of WWII, not to promote or protect any universal values. Thus, "it is the will of the governments of the member states – not a world public opinion guided by a **universal ethic** – that gives legitimacy to the United Nations' decisions."[209] More importantly, Zolo argues:

> The United Nations is founded on the representation of nation-states, each with its own particularity, and not the representation of the 'citizens of the world'. Moreover, it is marked by an extreme particularism in the discrimination between permanent and non-permanent members of the Security Council and, even more, in the attribution of veto power to the permanent members, that is, the five great powers that won World War II. International protection of human rights and the whole cosmopolitan ideal inevitably require interference in the internal affairs of states; hence, they are incompatible not only with the principle of self-determination of peoples and the sovereignty of states, but even more with the decisional structure of current international institution.[210]

Zolo's position goes to the point of HMI's moral absolutism as tied into extreme individualism, and the fact that international law is intended to deal with states *qua* states, not individuals nor morality. This is especially true in light of the undemocratic system of decision-making, which is itself grounded in the particularistic will of governments that make up the UN.

The "morality-first" absolutist position of the HMI paradigm produces concerns about its functionality, before ever getting to the application of the paradigm. To start, there is the problem of the tradeoff, where the harm is a necessary outcome, while the benefit is only probabilistic – meaning that one commits to doing evil, while hoping that the outcome is ultimately good. Another problem is one of calculation, mirroring a common utilitarian issue of quantifying and measuring the good of one against the harm of another. A third problem is the uncomfortable similarity of such a position to that of colonial and imperialistic creeds, which sought to subjugate or even enslave a people for their own "benefit." Such attitudes, specifically when

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[209] Zolo, Danilo. *Victor's Justice*. Pg. 58. Emphasis added.
[210] Zolo, Danilo. *Invoking Humanity*. Pg. 83.

used for war justification, are also found as the cornerstone of Salafi-Jihadist (read: terrorist) ideology. This ideology is the core about which terrorist groups like Al Qaeda and ISIS, among many others, build the justification for their murderous methodology – including everything from child suicide bombers to genocide.[211]

Finally, there is the question of epistemic uncertainty and inherent epistemic limitations. In situations where HMI may be justified, the certainty of knowledge regarding the actual situation on the ground is very difficult to come by. This is in part because the situations that tend to trigger HMI happen in the midst of bloody conflicts, where objective and impartial information (and its collection) is severely compromised. Whether it's the incessant fighting or the propaganda of all sides, knowing exactly what is going on can be impossible.

More importantly, there is the problem of epistemic uncertainty of the consequences of action. Even if objective information about the situation on the ground was available, there is no way of knowing whether HMI is likely to resolve the problem or exacerbate it. Moreover, there are already clear examples of HMI failure in the short-term and the long-term, as well as clear examples of military support for momentary allies leading to outcomes objectively worse than those predicted by the initial human rights violations. Thus, in the case of Libya, the HMI against Ghaddafi and in support of the "rebels" led to a failed state, where Al Qaeda and ISIS have made strongholds and now operate with impunity. In the case of Soviet invasion of Afghanistan, the *mujahedeen* trained and equipped by the US did repel the invasion, but subsequently became Taliban and Al Qaeda.

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[211] Shiraz, Maher. *Salafi-Jihadism: The History of an Idea.* London: C. Hurst & Co., 2016. Pg. 130.

Given the epistemic uncertainty regarding both the situation on the ground and the consequences of action, there is sufficient reason for skepticism regarding the apparent certainty of HMI proponents. Further, given the record of several spectacular failures of HMI and other military support of an "obviously" righteous cause, there is reason for skepticism regarding the kind of moral absolutism claims necessitating HMI as the means to moral ends. These issues are not in themselves a refutation of the HMI paradigm. They do, however, represent an important point in terms of the historical "regress" with regards to international law, as well as a troubling issue of imposition of foreign values, which will arise in a number of anomalies produced by HMI application. For the moment, the HMI paradigm must be viewed as somewhat suspect, given that it seeks to recall a system whose destructive tendencies led to its rejection, and the establishment of the state sovereignty, autonomy, and self-determination which created the modern international legal system.

It may seem as if part of the problem noted here comes from taking human rights as mere values, rather than moral absolutes, as the paradigm claims. On the paradigm position, it would follow that violations of moral absolutes cannot be simply disregarded, and that objective evil of human rights violations must be resisted. If human rights were mere values, they might be treated as relative, and thus allow additional considerations to come into play – justifying some acts of HMI, but not others. However, even if we accept the idea of human rights as beyond mere values, the anomalous nature of HMI application does not change. In fact, the anomalies might be worse. The point that must be reiterated is that the contention of this analysis is not that human rights abuses are not morally evil, nor that they should be ignored, but that the military solution is entirely inconsistent with the aims of the of HMI.

Anomalies

Having briefly noted some of the troubling theoretical aspects of the HMI paradigm, the analysis now turns to anomalies of HMI application. There are two sets of definitions offered by the HMI, whose anomalies this chapter will contend with. The first definition is the goals of intervention (cessation/prevention of gross human rights violations and reestablishment of stability). The second is the justifications for intervention (regional stability, threat of international war, and terrorism). Both of these definitions are the applied methodological aspects of the HMI paradigm. In all cases, the point of contention rests on the use of military methodology, and the relevant focus lies with the functionality of the method. In both cases, the justification for HMI is found in gross human rights abuses, with the questions of stability and the like used as indicators of worsening violations, should the initial acts go unchecked.

Throughout this section, the analysis will make use of practical HMI examples. The interventions in question will primarily consist of the US invasions/interventions in Afghanistan (2001), Iraq (2003), Libya (2011), and Syria (2013). The reason for including only the interventions with US presence comes from the lack of HMI examples without US presence.[212] While Afghanistan and Iraq were not initially introduced as primarily humanitarian ventures, the humanitarian arguments were made as secondary or tertiary points. Additionally, the HMI literature, as early as 2004, has commonly classified both Afghanistan and Iraq wars as HMIs, if *post facto*. Libya was a clear-cut case of HMI, with the primary justification being the developing humanitarian crisis arising from the civil war. Syria presents an interesting case,

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[212] While there are examples of peacekeeping missions in Africa without US participation, these do not qualify as HMI, as the methodology of such missions was not a military one.

because the official justification is given as war on terror viz. ISIS. However, the initial intervention attempt against the standing government (due to the perceived human right abuses), delegitimization of the standing government in favor of a government in exile, continued efforts at regime change, and direct military and other support of the Syrian rebels who are engaged not with ISIS but with the government forces, calls into question the official justification.

Finally, the act of intervention must also be understood from the perspective of the targeted state, or rather its citizens. Intervention, insofar as it uses military methodology against a state, and particularly where the military methodology includes troops on the ground is a *de facto* foreign occupation of sovereign land. The justification, perception, and ideals of the occupying force make no difference, because the issue is the experience and perception of the people of the targeted state. Robert Pape argues, "Whether the foreign power regards itself as a 'stabilizing' ally rather than an 'occupying' power is not relevant… if most of the local community believes that [occupation] is the case – then, from the perspective of the resistance, then these foreign troops are occupying forces…"[213]

A number of the following anomalies can be better grasped by understanding the military act of the HMI as an act of occupation. Again, the HMI paradigm is not concerned with international law – whereby the law of occupation may come into play – but only with the moral justification on the grounds of human rights abuses. It is no use trying to argue that the apparent military control of a nation by a foreign power is for their own good, and that the occupied people should not feel as though they've been occupied. The same argument has been made by

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[213] Pape, Robert. *Dying to Win: The Strategic Logic of Suicide Terrorism*. New York: Random House, 2005. Pp. 83, 4. Brackets mine.

most every empire in history, and has yet to result in a sudden "enlightened" attitude change by

the occupied people. Even where the occupation leads to significant social progress, or where the

occupied people take on the language and religion of the occupier (e.g. the case of Bosnia under

the Ottoman rule – from 15th-19th centuries), foreign control breeds resentment.[214] The

particular consequences of this resentment may vary, revealing themselves as protests,

insurgency, rebellion, or terrorist action.

The anomalies of applied HMI fall under four general categories. Though the categories

are often intertwined, creating an abstract separation will help in clarifying the particular

anomalies, as well as structuring the broader complex anomalies that occur in causal chains. The

first category is the *Act of HMI*, and focuses on three anomalies that arise from the act of military

engagement. The second category is the *HMI Limits*, with four anomalies caused by the

limitations of the military use of force in attempting to attain the goals of HMI. The third

category is *Long-Term HMI Instability*, where the anomalous outcomes of HMI come together to

form domestic, regional, and even global human rights violations and instability – thus

undermining the entirety of the project envisioned by the HMI paradigm through two anomalies.

Finally, the category of *Other Anomalies* presents an additional pair of anomalous features,

which are generally intertwined with the preceding ones, but do not specifically belong to any of

their categories.

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[214] Machiavelli, Niccolò. *The Prince.* Tr. Tim Parks. New York: Penguin Books, 2009. Pg. 20. AND
The 1979 "*Life of Brian*" film makes this point rather comically, as an insurgent group attempts to justify their resistance to the Roman occupation of Judea, despite listing a plethora of objective improvements to the quality of life introduced by the Romans, prompted by the question, "what have the Romans ever done for us?".

Act of HMI

The first category of anomalies arises from the military act of HMI – i.e. the act of war by one state against another, on HMI grounds. It rests on three demonstrable points: 1) disproportionality, 2) human rights violations and 3) instability (leading to more human rights violations).

In considering modern war, Zolo argues:

> Modern warfare is itself the most radical negation of rights of individuals, starting from the right to life. In fact, modern war, conducted with ever more sophisticated and lethal weapons of mass destruction, is incommensurable with the categories of ethics and the law. Its *raison d'être* is to destroy – irrespective of any sense of proportion, discrimination or degree – the life, property, and rights of individuals, with no regard to personal responsibility. It is, in practice, the implementation of a collective capital punishment on the basis of presumed criminal responsibility of all a nation's citizens. In terms of its consequences, modern warfare cannot in fact be easily distinguished from terrorism.[215]

War has always been faced with the task of proper discrimination; separating the legitimate targets from the illegitimate ones – i.e. soldiers from civilians. Traditional war (self-defense and defense of allies) is composed of an aggressor state involved in military invasion of a victim state. The goal of the victim state, or of a state intervening on its behalf, is clear: 1) drive out the invading forces; 2) return the victim state to territorial and sovereign integrity; 3) prevent future violations of territory and sovereignty by the aggressor. For example, the continental fight in WWII had this exact model in mind, with the operations centered on expelling German military forces from occupied states, returning the occupied states to the control of their people, and ensuring that further German aggression is impossible in the foreseeable future. The goals were similarly clear in the Gulf War, following the Iraqi invasion of Kuwait. The difference between the two conflicts came only in the form of particular methods

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[215] Zolo, Danilo. *Victor's Justice.* Pg. 83.

of ensuring the prevention of future aggression – justifying the invasion of Germany, but not of Iraq.

In the process of waging traditional war, the question of discrimination between aggressors and victims is relatively simple: aggressors are foreign invasion troops and their home state; victims are the local people (military and civilian) and their state. The same designations also function when considering infrastructure targets. This distinction allows for harming the aggressor's military capabilities, while protecting those of the victim. In some cases, collateral damage to the victim occurs as the result of targeting the aggressor, but even in these cases the distinction is preserved, as is the coherence of using war to protect the victim state and population. Without such a distinction, liberating Paris in WWII could have been accomplished just as well by firebombing the city. In either case, the German forces would have suffered defeat. This indiscriminate approach to liberation was used by the US troops in the 1945 Battle of Manila, with over 100,000 civilian deaths, and total destruction of the city.

Military reliance on secondary or infrastructure systems has multiplied valid targets in contemporary war. These infrastructure systems support the military apparatus, and are now commonly intertwined with the civilian infrastructure in a way that makes the two generally indistinguishable. However, as regards discrimination in traditional war, all such infrastructure of the aggressor is a valid target, as its destruction greatly decreases the ability of the aggressor's military operations by denying them access to crucial services. The interventions in Kosovo (1999), Iraq (2003), and Libya (2011), are particularly demonstrative of this approach, where the primary targets were infrastructure – not military personnel – and where the conclusion of the conflict was essentially arrived at without resorting to serious military action against the

militaries of the targeted states. Finally, the destruction of supporting infrastructure is far easier than the destruction of the military itself (one does not simply move roads and bridges), suffers from lower immediate military casualty counts (on both sides), and allows for a swifter political resolution to the conflict.

Traditional war distinction between the aggressor and victim does not exist in HMI, as both the aggressors and victims are citizens of the same state, without a foreign component. This lack of distinction causes a problem of uncertainty for the goals of military use, in terms of the endpoint for military operations, since there is no foreign aggressor to attack and expel. The return of the victim's territorial and sovereign integrity is impossible – since no such violation existed to begin with. The prevention of future territorial and sovereignty violations is also impossible, since again, such violation did not exist and the relevant HMI violations occurred only domestically.

HMI is unable to make a meaningful discrimination because of the very fact that the aggressor and victim are not merely *in* the same state (a common result of wars of aggression), but are *of* the same state. Consequently, military operations cannot distinguish legitimate from illegitimate targets, partly because many infrastructure targets are one and the same. In case of HMI, functional discrimination between the aggressor and the victim effectively vanishes, and the traditional war goals and distinctions cannot apply – that is, there is generally no legitimate target to attack – insofar as legitimate targets are ones that also necessarily harm the civilian population and/or the population one seeks to protect.[216]

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[216] Zolo, Danilo. *Invoking Humanity*. Pg. 89.

While the targeted state itself may be said to be a legitimate target of military force, the only legitimate elements would be those that are entirely part of the state apparatus that is actively engaged in the human rights violations. Given that the majority of the population is almost never engaged in this way, and that the infrastructure and similar factors are shared between the valid military, and invalid civilian, targets, there is no functional way of disentangling the two – and from knowingly engaging in attacks against civilians. Where proper distinction cannot be made, simply bombing/shooting is equivalent to firing into a crowd, on the off-chance that a dangerous criminal may be hiding among the innocents. Given the inability of HMI to militarily discriminate between the two, this analogy is rather apt.[217] While Niebuhr insists on moral action, despite the problem of dirty hands, disproportionate disregard for the civilian costs of action poses a problem.

That indiscriminate attacks are not acceptable, even when directed against clearly objective evil, can be demonstrated by considering whether the fire-bombing of Auschwitz and/or Dachau would have been an acceptable method of preventing their continued operation. Despite their overwhelming evil, and even if we assume absolute culpability of every employee at the camp, the accompanying side-effect of killing tens of thousands of people imprisoned at the camps makes such an act an act of evil itself, so heinous that no HMI adherent would ever consider it as a viable solution. Thus, it seems that even the acceptance of moral imperfection in the fight for justice must draw a line of proportionality and discrimination at some point. Zolo argues:

> Is it morally legitimate to kill innocents to prevent or stop a massacre? Who has the *moral* authority – not the mere political or military power – to decide? Is the killing of innocent people morally acceptable, under the sole condition that it not be intentional but merely an expected 'collateral damage' by military actions

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[217] Zolo, Danilo. *Victor's Justice.* Pg. 83.

(the 'law of double effect')? By what parameters can one gauge the acceptable proportion between *willed* and merely *foreseen* effects? In sum, these jurists' recourse to ethical arguments has essentially served the purpose of loosening the links of international law by circumventing the provisions that subject the use of force to conditions and procedures agreed upon by the international community.[218]

A situation where the victims and aggressors are entirely separated geographically might circumvent this problem, though such cases are very few and far between. Even the 1999 Kosovo intervention, with a rather clear demarcation between Kosovo and Serbia as political entities, resulted in *de facto* ethnic cleansing of Serbs from Kosovo – whether by force or by perceived threat of force.

Walzer notes that a successful HMI is almost necessarily dependent on attacking some civilian targets, but also that the harm to the aggressor state, and indirectly its citizens, is also commonly taken to be something of a punitive measure, which serves to apply domestic pressure on the aggressor government to cease its military activities:

> These can be bridges and television stations, electric generators and water purification plants, rather than residential areas, but the attacks will endanger the lives of innocent men, women, and children nonetheless. **The aim is to bring pressure to bear on a government acting barbarically toward a minority of its citizens by threatening to harm, or actually harming, the majority to which, presumably, the government is still committed**.[219]

Zolo argues that this position reflects a rather inhumane attitude, in questioning "whether, in the name of the (alleged) protection of fundamental rights of some individuals, it is legitimate to sacrifice the lives, physical integrity, property, feelings and values of… innocent people."[220] Recognizing the apparent contradiction of preventing barbarities against a minority by committing barbarities against the majority, Walzer hedges the claim by positing such intent as:

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[218] Zolo, Danilo. *Invoking Humanity*. Pg. 77.
[219] Walzer, Michael. *The Argument About Humanitarian Intervention*. Emphasis added.
[220] Zolo, Danilo. *Victor's Justice.* Pg. 82.

probably not legitimate even where it might work – **so long as there is the possibility of a more precise intervention against the forces actually engaged in the barbarous acts.** The same rules apply here as in war generally: noncombatants are immune from direct attack and have to be protected as far as possible from "collateral damage; soldiers have to accept risks to themselves in order to avoid imposing risks on the civilian population.[221]

Walzer's position is neither unique nor marginal in the HMI camp. Yet, for all the technical details regarding the immunity of noncombatants, HMI commonly (if not universally) presents an inability to make the distinction on the ground – despite the latest and greatest of military and support hardware. The attacks that will serve to cripple military capability will inevitably cripple the civilian population as well. Additionally, the notion of bringing pressure to bear on a government, by harming its non-oppressed (i.e. cared-for) citizens, functions as collective punishment, reprisals, and a form of severe human rights violations. Finally, Walzer's argument does allow for the wholesale destruction of civilians as a punitive measure, as long as more precise methods are not available. This argument is not new to Walzer, as he had previously argued that a state of *Supreme Emergency* in war justifies any military action – regardless of the human and civilian cost, including genocide.

The act of HMI present anomalies not in the fact that some harm will befall civilians, and that the human rights of a few will be violated in the military operations. Rather, the anomalies disclose themselves in the fact that the lack of discrimination leads to severely disproportionate harm, in terms of violations of core human rights. Whether the particular issue is death of civilians, or destruction of state infrastructure, the consequences for the people of the state are disproportionately harmful, long-lasting, and disproportionately affect the civilian populations (both those whose human rights were and were not violated by the targeted state). While the

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[221] Walzer, Michael. *The Argument About Humanitarian Intervention*. Emphasis added.

HMI may be intended to affect primarily the military/political structure of the state, the military *qua* military (and regime *qua* regime) is only affected so long as they keep fighting. Once the surrender (or some other resolution) is carried out, the harmful effects of the intervention persist only for the general civilian population. Case in point, the 2004 *Second Battle for Fallujah* (aka *Operation Phantom Fury*) has resulted in an extremely high rate of birth defects in the region. While it is unclear whether the use of depleted uranium ammunition is to blame – because the exact type munitions used have not been disclosed – the fact is that in the wake of US "liberation" of Fallujah the rate and severity of birth defects and cancers has increased dramatically, and seems to only be increasing over time. The operation itself lasted six weeks, and was the only point during which the opposing militants were subject to the same harm, while the harm to the civilian population of the region has multiplied exponentially over the last 12 years.[222] A similar increase in birth defects and cancer-rates has also been noted in Serbia, following the 1999 bombings, which lasted for 10 weeks and used depleted uranium munitions.[223] Gaddafi's regime and forces only suffered the harms of the 2011 intervention for seven months, but the people of Libya are still dealing with the results of infrastructure destruction, state destabilization unto failure, sectarian violence, influx of foreign terrorist organizations, etc.[224]

It is interesting that the anomalies of proportionality and discrimination also serve as a contradiction to International Humanitarian Law (IHL). As noted by the ICRC:

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[222] Zwijnenburg, Wim. *Laid to Waste: Depleted Uranium Contaminated Metal Scrap in Iraq.* Colophon, 2014. Pp. 20-26.

[223] United Nations. *Effects of the use of Armaments and Ammunitions Containing Depleted Uranium.* Report of the secretary General. July 24, 2008. A/63/170. Pp. 15-17. http://www.bandepleteduranium.org/en/docs/52.pdf Accessed on 1/30/17.

[224] Kube, Courtney and Windrem, Robert. *Did Obama Defeat ISIS in Libya?* NBC News. January 28, 2017. http://www.nbcnews.com/news/world/did-obama-defeat-isis-libya-n709001 Accessed on 1/30/17.

International humanitarian law prohibits all means and methods of warfare which:

- Fail to discriminate between those taking part in the fighting and those, such as civilians, who are not, the purpose being to protect the civilian population, individual civilians and civilian property;
- Cause superfluous injury or unnecessary suffering;
- Cause severe or long-term damage to the environment.[225]

As demonstrated above, HMI is in direct violation of the first point, with the inability to effectively discriminate between target types. The destruction of civilian property has also been shown to be a necessary effect of HMI, with the destruction of infrastructure. As per the noted usage of depleted uranium and other harmful substances, HMIs have also acted in contradiction to the third point. However, this is not an integral part of HMI, and could be resolved. Whether the harm and suffering caused by HMI are superfluous is open to debate. However, even if we grant that it is not, HMI is inherently committed to violating the first prohibition, and has commonly violated the third one as well.

HMI also seems to functions as a justification of third-party reprisals (collective punishment) against the civilian population, as retribution for the acts of human rights violations committed by their government against their fellow citizens.[226] The kind of grotesque mental gymnastics necessary to justify this "moral" position strip away the very concepts of humanity, human rights, and morality from whatever ethical theory they become a part of. The willingness to engage in outright murder (both directly and indirectly) of indisputably innocent people, in pursuit of a "higher cause" is terrifyingly close to the Crusader call *"Deus Vult!"* as well as the justifications of terrorist organizations the world over – including Al Qaeda and ISIS. The claim that "we are right" for holding such a position, while "they are wrong" only serves to cast us

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[225] ICRC. "What is International Humanitarian Law?" 07/2004. https://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf Accessed on 4/3/17.
[226] Zolo, Danilo. *Invoking Humanity*. Pg. 89.

once again into the kind of fanaticism, backed by moral hysterics, that had allowed acts of pure barbarism to take place historically.

The 2015 PSR report concludes that more than 1,300,000 deaths resulted from the US-led interventions in Afghanistan and Iraq.[227] At an average of 122,000 annually, the current kill rate exceeds that of US losses in WWII by 22%, and would be considered genocidal under any other circumstances. Though contested, these numbers serve to demonstrate the difference between traditional and HMI wars; even where the traditional war example is among the bloodiest in human history. Given the inability to functionally discriminate between legitimate and illegitimate targets, and the disproportionate use of force against the state infrastructure as a means of arriving at a speedy resolution to war (resulting in *de facto* reprisals against civilians of the state), HMI must *per force* engage in wholesale human rights violations against the whole population of the targeted state. The destruction of the state – people and infrastructure – is a long-lasting, harmful effect of HMI, that encompasses primarily the civilian population. The same destruction leads to increased state instability on several fronts, including the noted instability by military destruction.

Finally, the act of HMI, in its destructive military approach, also creates a flood of refugees and internally displaced persons. While the long-term state instability will also add to the problem, the destruction of infrastructure commonly makes for sizable uninhabitable regions, and thus the problem of displaced persons. The destruction of infrastructure makes basic

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[227]Body Count. *Casualty Figures After 10 Years of the War on Terror - Iraq, Afghanistan, Pakistan.* Washington DC: PSR, March 2015. Pp. 15, 18.
The PSR report is particularly important, because their work is both thorough in terms of casualties, as well as methodology and results of all other major studies. As such, it represents the best source on the subject. The number of deaths in Pakistan is given as only 80,000, and does not meaningfully affect the calculations.

necessities more difficult to obtain, even beyond the average war situation. The absence of electricity, potable water, hospitals, medicine, communications, etc. causes an exodus of the local populace. This pattern is seen in the intervention experiences of Afghanistan, Iraq, Libya, and Syria. In fact, the destruction of Syria alone has resulted in more than 11 million refugees and IDPs.[228] Besides the general struggle for survival and reduction in human rights that comes with population displacement, there is also the very real existential threat, with thousands of fleeing refugees dying in the Mediterranean annually, etc.

For HMI, the suffering and accompanying human rights violations of the IDP and refugee problems rate as secondary problems, and would not of themselves provide a strong enough moral impetus to prevent HMI. However, the creation of large displaced populations is intimately connected to the aforementioned problems of disproportionality and core human rights violations created by the HMI. That is to say, the problem of refugees is a one that arises only as a result of severe human rights violations, and the increase of refugees and IDPs as a result of HMI indicates that the human rights situation has only gotten worse. Afghanistan, Iraq, Libya, Syria, and other states subjected to HMI, have all become objectively worse for core human rights, and have thus resulted in an ever-increasing number of refugees.

Summarizing the anomalies of the military act of HMI, we are faced first with disproportionate suffering caused by the military methodology in targeting infrastructure (arising from the problem of discrimination), where the military victory by intervening forces causes severe and long lasting harm to the entire population of the targeted state. Second, human rights

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[228] While the Syrian war is actually 4 different types of conflict, and all four have contributed to the refugees and IDPs, the civil war (Assad v. rebel groups) and the political struggle (rebels v. rebels) have produced these in greatest numbers. In both cases, the Western intervention has contributed to the problem, by arming and training various rebel groups.

violations resulting from the problems of discrimination and disproportionality are both direct and indirect, and result in the kinds of casualties, suffering, and human rights violations found only in the bloodiest versions of traditional war. While some collateral harm is expected in any military operation, the degree necessarily caused by HMI is disproportionately worse, and causes human rights violations of the type otherwise considered war crimes in traditional war, or worthy of triggering HMI if part of domestic policy. Third, the destruction of the population and infrastructure of the targeted state leads to the decrease in the stability of the state in the short-term, and results in additional human rights violations – including a sizable refugee and IDP crisis within the targeted state, in the region, and even globally. The paradigm claims of preventing gross human rights violations and reestablishing stability have been undercut by the anomalous realities of HMI outcomes.

HMI Limits

The second category of anomalies arises from the limitations of military methodology. As all things, war (regardless of purpose) has a limited scope of functionality. That is, the use of military methodology is limited in its problem-solving capacity to a very specific and narrow set of problems. The following four anomalies are the result of HMI, which arise from its inherent overreaching of the functional limits of war: 1) prevention of killing does not in itself create a resolution; 2) "in and quickly out" approach is untenable; 3) HMI requires regime change; and 4) occupation as a consequence of regime change.

The act of HMI (as an act of war for reason other than defense) inherently violates sovereignty, as well as the autonomy of people towards self-determination. Yet, the more serious problem arises out of its long-term consequences, since the intervening state must continue to

deride the sovereignty, autonomy, and self-determination of the people it sought to protect from

human rights violations. The military approach, in particular, results in the problems of human

rights violations and long-term instability. In his *The Argument About Humanitarian*

Intervention, Walzer considers the problems of ending HMIs. He asks the reader to:

> Imagine the intervening army fully engaged: how should it understand the victory that it is aiming at?
> When is it time to go home? Should the army aim only at stopping the killings, or at destroying the military
> or paramilitary forces carrying them out, or at replacing the regime that employs these forces, or at
> punishing the leaders of the regime? Is intervention only a war or also an occupation?[229]

He then provides an answer, from his 1977 *Just and Unjust Wars*:

> The aim of the intervening army is simply to stop the killing. Its leaders prove that their motives are
> primarily humanitarian, that they are not driven by imperial ambition, by moving in as quickly as possible
> to defeat the killers and rescue their victims and then by leaving as quickly as possible. Sorting things out
> afterwards, dealing with the consequences of the awfulness, deciding what to do with its agents – that is not
> properly the work of foreigners. The people who have always lived there, wherever "there" is, have to be
> given the chance to reconstruct their common life. The crisis that they have just been through should not
> become an occasion for foreign domination. The principles of political sovereignty and territorial integrity
> require the "in and quickly out" rule.[230]

However, Walzer is quickly forced to acknowledge a possible problem with this approach:

> Where the extent and depth of the ethnic divisions make it likely that the killing will resume as soon as the
> intervening forces withdraw… If the original killers don't return to their work, then the revenge of their
> victims will prove equally deadly. Now "in and quickly out" is a kind of bad faith, a choice of legal virtue
> at the expense of political and moral effectiveness. If one accepts the risks of intervention in countries like
> these [Uganda, Rwanda, Kosovo, etc.], one had better accept also the risks of occupation.[231]

The extended approach Walzer argues for, then forces HMI into an act of regime change:

> The intervening forces should aim at finding or establishing a form of authority that fits or at least
> accommodates the local political culture, and a set of authorities, independent of themselves, who are
> capable of governing the country and who command sufficient popular support so that their government
> won't be massively coercive. The new regime doesn't have to be democratic or liberal or pluralist or (even)

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[229] Walzer, Michael. *The Argument About Humanitarian Intervention*.
[230] *Ibid.*
[231] *Ibid.*

capitalist. It doesn't have to be anything except non-murderous.[232]

Walzer initially takes a position that seems anti-imperialistic, and which only crosses over into the political realm of regime change in severe cases. However, he fails to note that the domestic acts that trigger HMI are inherently severe cases, and are not mere incidents. In fact, they are universally the product of a broad scope of decisions made by the government, backed by a sizable part of the population, and are a planned-out series of policies intended to achieve a particular goal. Thus, for example, the German legal system spent years legally marginalizing the "undesirable" populations of Germany, which culminated in the attempt at their extermination. The treatment of the Iraqi Kurds was not an act of passion on the part of Saddam, but a carefully considered response, aimed at both destroying their efforts at secession/political organization and discouraging any other groups from attempting the same. The hatred of the Tutsis in Rwanda had been stoked a long while, before the act of genocide. The systemic, long-term planning that goes into genocide, from the initial classification and "othering" of undesirable groups, to the act of genocide itself and subsequent denial, have also been carefully charted by the Genocide Watch, in their "The Ten Stages of Genocide."[233] Consequently, the act of intervening is not a mere breaking up of a spontaneous fight. Instead, it is an interjection into the planned and supported policies of a state. This means that merely stopping the violence for the moment is unlikely to prevent continued and future human rights violations, including genocidal activity.

It is for this reason that the prevention /cessation of killing and reestablishment of stability aims are intertwined in the HMI goal. However, this also means that the idea of "in and

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[232] *Ibid.*

[233] Stanton, Gregory. *The Ten Stages of Genocide*. Washington DC. 2013.
http://genocidewatch.org/genocide/tenstagesofgenocide.html Accessed on 1/15/17.

quickly out" is not a tenable one, because the realization of a long-term cessation of killing requires a more meaningful – i.e. political – scope to the intervention policy. Additionally, Walzer fails to appreciate the political realities and possibilities of such actions, to the extent that his claims of "in and quickly out," and an independent new regime are themselves made in bad faith. For authors like Zolo, Walzer's apparent avoidance of imperial ambition is a mere matter of more advanced imperial goals, where the war is waged for control of everything *but territory*, yet aims to establish the world order in one's own image.[234]

There are two types of government structures that can engage in severe human rights violations. The first is where the government and armed forces of the state are the majority, and the victimized population is the minority. This was the case of Serbia and Kosovo, also of Germans and "undesirable" German populations. Thus, the government that represents the majority has the support of the majority in its policies – at least by their failure to provide meaningful opposition. Merely intervening to momentarily stop the killing will do nothing to change the political or ideological landscape that has encouraged it. If a regime change is carried out in this condition, a democratic system will appoint a government whose ideology is generally in-line with that of the displaced government, and the problem of human rights violations will remain.

The second type is a government and armed forces of the state as the minority of the population, which manage to oppress the majority through monopolized control of means of violence. This was the case for Iraq and continues to be the case for Syria. In such cases, the violence against the marginalized majority is again institutional and will not be resolved by a

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[234] Zolo, Danilo. *Victor's Justice*. Pp. 95-6.

forced momentary cessation. However, if a regime change is carried out, the new government would represent the majority, and the now-marginalized minority is likely to become the target of reprisals – or at the very least will be functionally excluded from the basic participation in the safety, security, and services offered by the state; the human rights violations merely switching targets. Additionally, even a mere perception of coming reprisals is likely to cause a mass exodus of the population as refugees (e.g. Serbs fleeing Kosovo after the 1999 US/NATO intervention). Again, the human rights violations remain, and with a potentially higher chance for devolving into violence, as the once-oppressed people gain power over their former oppressors. This was also the case in Rwanda, as the Hutu majority overthrew the Tutsi government, followed by genocide in reprisal for perceived oppression.

These realities of post-intervention mean that Walzer's ideas of regime change carry a host of additional implications, if they are to coherently resolve the kinds of issues that triggered the HMI in the first place. The first implication is that the appointment of the new government cannot be democratic. The act of intervening has already stripped out the possibility of certain individuals, groups, and political ideologies as valid political actors in the new government. Case in point, the Ba'ath party members of Iraq were ineligible to run for office; the Taliban (as well as Al Qaeda) was ineligible to run for office in Afghanistan; the US tried to delegitimize the Assad government, and exclude it from participating in the outcome of the proposed political solution in Syria. Second, the idea of a new government as independent of the intervention forces (as per Walzer) is incoherent, in light of political actor limitations, and especially if the intervening forces are supposed to "find or establish" the new government. Given that legitimate political expression is already limited by the intervening forces, any new government must be one that is tacitly approved by the intervening power. Additionally, the ideology of the new

government must be in-line with the intervening power, not merely in terms of human rights, but also in terms of economic, political, and other issues. It is unreasonable to believe that the intervening power, after accruing significant costs in the act of intervention, would permit the new government to be diametrically opposed to itself and its interests – e.g. the Afghani government could not have been allowed a constitution in line with the ideology of Al-Qaeda. A functional example can be found in the US insistence that the Palestinians hold free and fair elections, followed by the rejection of the 2006 election results when Hamas prevailed. Thus, we can conclude that the only results acceptable to the intervening power are those that represent not merely Walzer's non-murderous and human rights-respecting regime, but also the interests of the intervening power. Again, the "in and quickly out" position is untenable, as the required results are beyond a mere military victory. This results in a *de facto* return to imperialism, as will be noted below.

At this point, it should be obvious that there is a conflict between democracy and human rights. Political systems that are merely democratic do not guarantee human rights protections, nor are they immune to gross human rights violations.[235] In fact, in cases of regime change, democracies virtually guarantee the continuation of gross human rights violations – whether against the originally affected population or against former oppressors. Given that HMI is focused on human rights and seeks to prevent their future violations, the paradigm is profoundly undemocratic. This is, in part, because the moral absolutism of HMI ranks any political or other

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[235] This is also part of the reason for the Bill of Rights as part of the US constitution, since democracy may become a mere tyranny of the majority.

oppression as infinitely less important than the preservation of core human rights and the opposition to the objective evil of genocide and ethnic cleansing.

The use of HMI necessarily implies the rejection of the validity of autonomy of the targeted state and its practice of self-determination by its choice of domestic policies within its own borders. Consequently, in pursuing HMI, one is forced to begin by finding the domestic policies of the targeted state to be morally inferior to one's own – or rather to be immoral, by the moral absolutism standard. Coupled with the undemocratic domestic interference created by HMI and functional imperialism in recreating the political landscape of the targeted state, this position also leads to the need for, and problems of, regime change and occupation.

There are two possible situations where human rights violations are taken as justifying HMI: violations that have resulted in a civil war, and violations that have not. In the former case, the use of HMI generally necessitates a regime change; in the latter case, there may be a possibility of preservation of the existing regime. In both cases, the foreign involvement leads to a direct and severe impact on the domestic affairs of a state, by interfering with the process of autonomous self-determination of a people. Making the historically-based assumption that interventions are carried out by the states that have the military power to definitively resolve the conflict by military might, this means that the very act of HMI becomes determinative on the outcome of the domestic political landscape. Additionally, HMI cannot be carried out in support of the existing regime, since this would make the intervention part of traditional war by the aid request from the existing government, as defense of an ally (e.g. the Russian support of the Syrian regime is an intervention, but one predicated on traditional war justification of defense of allies, and is not an HMI).

In the case of regime change, the political interference by the intervening power is little different from rigging foreign elections or establishing a puppet regime. The result is a political situation that grants power to whatever faction is selected by foreign influence, thus denying the self-determination of the people. Of course, since the primary issue for HMI is human rights, not democracy, this outcome is not itself a problem. In the off-chance that regime change does not occur (e.g. by state's capitulation to the demands of intervening power in a way that leaves the extant government in power), the remaining government becomes controlled by that intervening power – creating an effective regime change by establishing a puppet government; dependent on the continued approval of the intervening power. In both cases, the result is a foreign occupation of sovereign land, and interference with the sovereign functioning of the state's government. Again, Walzer's argument for an independent new regime seems to be made in bad faith – given the inescapable conclusion of foreign imposition on domestic governance.

Here, the issue of occupation becomes central for several anomalies. As Pape noted, the real question is not whether the intervention objectively functions as an occupation, but whether the people of the targeted state – i.e. the civilians – feel occupied. In this case, the feelings of the population carry more weight than the intentions of the intervening state, because it is the feelings and perceptions that guide the reactions and responses of the occupied peoples. HMI is limited by its military methodology, and neither the mere cessation of killing nor the "in and quickly out" elements of the HMI paradigm are sufficient or possible for achieving HMI goals. The foreign involvement in domestic affairs, coupled with the extended stay of intervention forces in order to forcefully establish stability until the new government can take over, makes the intervention into a foreign military occupation of a land.

The intervening military cannot help but take over certain domestic functions of a state, given that the intervention, especially with the accompanying necessity of regime change, first collapses a state, and seeks to rebuild it only after the collapse. As Berti notes, a functional state provides safety, security, and services to its people.[236] Once a state is collapsed, the safety, security, and services cannot be provided by the state, because the requisite mechanisms have been destroyed in the collapse of the old regime. As a result, there are two options available: either the intervening force simply withdraws and leaves the collapsed state to deal with the problems created by the intervention – as per Walzer's initial claim (e.g. Libya); or the intervening force becomes involved in the occupation until the new government is established (e.g. Afghanistan, Iraq).

The latter option is far more common, especially with the stated HMI desire of establishing a functional degree of local and regional stability. However, this means that the intervention force must take over the safety, security, and services, which functions as a form of occupation – if not annexation. This means that Walzer's "in and quickly out" system is incompatible with the aims of HMI.

While the specifics of occupation create anomalies in their own right, and will be addressed in the next section, the pertinent anomaly arises from the need for occupation and its implications. The need for an occupation undercuts the goal of HMI of simply preventing killing, or as being an "in and quickly out" approach to human rights violations. The proposed approach of aiming for intervention as a means of simply preventing violence is, even according to most

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[236] Berti, Benedetta. *The Surprising Way Groups like ISIS Stay in Power*.

HMI accounts, a claim whose military methods are insufficient for the goal. Thus, the intervention becomes a vehicle for occupation and regime change.

The anomalies noted in this category are classified as "HMI limits," because they reveal an important anomalous reality of HMI application; namely that the ends and military means of HMI are incompatible. The cessation or prevention of killing is itself insufficient as a goal, and the "in and quickly out" approach does not result in either long-term prevention of further human rights violations nor in state stability. The necessity of regime change, and subsequent occupation by the intervening forces, points to the problem and solution as belonging primarily to the political realm, not to war. While most political and military thinkers agree with Clausewitz's view of war as a continuation of policy, all would agree that, even as an instrument of political policy, war is not a functional solution to every problem.

Long-Term HMI Instability

Thus far, the noted anomalies have laid the groundwork limits in the HMI military approach, regarding the goals of HMI. The mere prevention of killing is insufficient; "in and quickly out" is not a functional option; regime change is a necessity; and the pursuit of regime change creates a state of foreign occupation, which both creates and controls the development of the targeted state's political landscape. The *Act of HMI* and *HMI Limits* categories combine to produce the gestalt anomalies of *Long-Term HMI Instability*, which is the third category of anomalies. There are 2 anomalies to contend with: consequences of occupation and regime change, and state instability and failure.

The necessity of occupation and regime change have already been noted, and are anomalies in their own right. However, as Pape demonstrates, and history bears out, occupation

and regime change produce a cascading series of additional human rights violations, most of which would qualify as anomalies on their own. Given that all the issues arise from occupation/regime change, the issues will be treated as a single conglomerate anomaly.

As a result of regime change and its exclusion of (often large) portions of the population, a political/sectarian division arises in the state population – between the new and old government members and supporters – or at least between those oppressed by the former government and beneficiaries thereof. The new government, especially in its nascence, is incapable of providing the full range of security, safety, and services to its population, and thus tends to favor "its own" people over the opposition. This constitutes a type of reprisals against the former oppressors, and is viewed as such by the now-ostracized population. These reprisals may range from inadequate/inequitable services provided, failure to provide security, and finally outright attacks against the former oppressors. A good example can be found in the increasing tribalization and sectarianism of the Iraqi Sunni regions in the wake of the 2003 invasion – e.g. the Anbar Province – where the Iraqi government held little sway, while tribal councils provided functional administration. The cause of the tribal split came from the sectarian difference between the majority Shi'a government, and the minority Sunni population, that had left the minorities to fend for themselves – whether in terms of goods or security from increasing violence.

In cases where the government is unable or unwilling to provide security, safety, and services, people tend to revert to more tribal forms of social functioning in order to compensate. On the one hand, the tribal outlook does help to shore up the inadequacies of the state. On the other, tribalism constitutes perhaps the most extreme version of xenophobia, jingoism, and racism (along whatever lines the local "tribes" are formed). This shift then serves to deepen the

political and sectarian divide among the populace, adding mistrust in each other, and more importantly in the government.

The new government, having been appointed by, or at least with the help of, the intervening occupying power, is seen as a form of a puppet regime, especially by those who have been politically disenfranchised. The perception is not entirely baseless, as the old regime was forced to collapse, to allow the creation of the new one. As a result, the new government is (at least initially) dependent on the help from the intervening power in order to function. Whether by means of aid, military assistance, or "advisors," the new government cannot truly function without foreign aid. Moreover, it was the foreign intervention and/or the not-so democratic system backed by the intervening power that elevated the new government into its position. Whether the foreign power chooses to pull the strings or not, the new government is beholden to the occupation forces for its creation and continued existence.[237] The continued requests for US military help by Afghanistan and Iraq (15 and 13 years after the initial invasions, respectively) serves to demonstrate the point.

With the political/sectarian divide, perception of a puppet regime, and exclusion from the civil life, the marginalized groups conclude that the new government is illegitimate.[238] However, having been marginalized, the opposition cannot pursue a political redress of the mounting human rights violations. Alternately, if the marginalized group is a severe minority, they will simply lack the numbers to make any political impact, even if they were allowed to try.

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[237] Machiavelli, Niccolò. *The Prince*. Tr. Tim Parks. New York: Penguin Books, 2009. Pg. 19.
The same principle is addressed by Machiavelli.
[238] Legitimacy is here intended as a means of measuring the willingness of the people to subject themselves to the government, premised on their perception of government interests. Where a government is found to be unconcerned with the people, and/or is a political tool of a foreign power, the people perceive the government as illegitimate, and refuse to submit to its rule.

It should also be noted that, historically, the new regimes installed by the occupation forces tend to be rather corrupt. The examples of Afghanistan and Iraq are particularly telling in this regard. The Afghani government installed by the US was well known for its nepotism and corruption.[239] Adding to the problem is the fact that the corruption and failure of the government to provide services to its people lead to a massive increase in the production of black market goods – particularly Opium in Afghanistan, where the post-invasion production rates as much as 2800% higher than under the Taliban.[240] Such black market presence indicates that the government is failing to provide basic services to the populace. In Iraq, the political corruption meant that only the Shi'a population held any kind of functional political office, and that the central government essentially let the Sunni regions suffer, despite vast oil wealth in the state.[241]

This conflagration of political/sectarian division, distrust in the government, government corruption, government inability or unwillingness to provide basic security, safety, and services, the inability of the dissenting population to achieve any changes by political means, and tribal attitudes, means that violence quickly emerges as a means of political protest. Violence is directed at the new government and its supporters, and soon adds the occupying forces to the list of enemies. The perception of the occupation forces as an enemy is a logical step for the disenfranchised population. If the new regime is the enemy, the forces that created and continue to support it are the extension of the same enmity. In fact, occupation forces may also be seen as

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[239] GlobalSecurity.org http://www.globalsecurity.org/military/world/afghanistan/corruption.htm Accessed on 1/29/17. AND
Beauchamp, Zack. *Kunduz: The Taliban's Biggest Victory in Years, Explained.* VOX: September 29, 2015. http://www.vox.com/2015/9/29/9415293/kunduz-taliban Accessed on 1/20/17.
[240] United Nations Office on Drugs and Crime. *Afghanistan Opium Survey 2016.* December 2016. http://www.unodc.org/documents/crop-monitoring/Afghanistan/Afghanistan_opium_survey_2016_cultivation_production.pdf Pg. 14. Accessed on 1/29/17.
[241] Rubin, Alissa J. *Oil Wealth divides Iraqis.* Los Angeles Times. August 1, 2005. http://articles.latimes.com/2005/aug/01/world/fg-power1 Accessed on1/28/17.

the pillar that props up the illegitimate state, and that the removal of the foreign support would allow the state to revert to its earlier and more desirable system – from the perspective of the disenfranchised.[242] This is not to say that at least some of the disenfranchised population should not be politically marginalized – e.g. Al Qaeda in Afghanistan – but rather that, from their perspective (and that of their supporters), the return to the "good old days" is far preferable to the new system.

While all the noted issues, as well as the problem of terrorism (below), are serious complications for stability in their own right, the primary anomaly that emerges for the paradigm is that HMI is the direct cause of a cascading and ever-increasing human rights violations at a genocidal rate.[243] Even if all the lesser human rights violations are themselves dismissed, the gross violations of deprivation of life and ethnic cleansing increase as a result of HMI. The lesser violations, though not themselves crucial, are indicators of the worsening human rights situation.

The violence, which may begin as a form of self-protection of the tribes from the (at least perceived) threat of occupying forces and the new government, quickly turns to terrorism. Facing a far more powerful opponent in the form of the new regime – or worse, in the form of occupying forces – terrorism and guerilla tactics are the only way that the far smaller forces of the disenfranchised can approach the asymmetrical situation. The terrorism effort may begin as

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[242] Machiavelli, Niccolò. *The Prince*. Pg. 23.
Machiavelli notes that such changes make enemies of everyone who had prospered under the old system (or at least did better than they're doing under the new one), while producing only half-hearted support, due to skepticism of the people about the new system.

[243] "Countries with the highest number of deaths by terrorism in 2015, by percentage of total deaths." https://www.statista.com/statistics/377061/countries-with-the-highest-number-of-deaths-by-terrorism/ Accessed on 2/8/17.
In 2015, terrorism accounted for 23.7% of all deaths in Iraq, and 18.1% in Afghanistan.

purely local but, at least in the Middle East, it usually gains the support of regional, non-national terrorist organizations.

At this point, the occupation and regime change produce human rights violations on the scale that creates localized terror cells, whose target is the new regime and the occupation forces. Recruitment for the terrorist organizations (as a matter of increasing the potential for violence and murder) is a simple matter, in light of the HMI killing of civilians and destruction of infrastructure, both of which caused severe harm and suffering of the civilian populations. Building off of the marginalization and tribalism of the disenfranchised people, the terrorist organizations pitch themselves as liberation efforts, and swell their ranks.

The political violence (turned into terrorism) is further exacerbated by a sort of political law of excluded middle. Both the new regime (with the occupying forces) and the insurgency are engaged in a zero-sum game; there can be no spectators among the population. In Afghanistan, this attitude often translated into the Taliban forcing villages and towns to provide aid, shelter, and information – under threat of violence. At the same time, joining or aiding the Taliban places the same regions at risk for further US "liberation." Additionally, the insurgent efforts promise (if not necessarily deliver) the crucial services to communities abandoned by the new regime. In doing so, they are perceived as doing the kinds of jobs the state will not, and thus garnering the support of the populace. Berti notes, "the weaker the states, the more non-state actors step in and fill that gap." And by doing so, the non-state actors are "building better bonds with the population by investing in social services."[244]

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[244] Berti, Benedetta. *The Surprising Way Groups like ISIS Stay in Power.*

This approach is not unique to insurgencies, and has been used often by criminal organizations to strengthen their hold on a region – by winning the hearts and minds of the people. For example, the Yakuza were the first on scene after the 1995 Kobe earthquake, sending in thousands of their members and emergency supplies for the 30,000 injured and 300,000 homeless.[245] Similarly, Hamas is a major source of funding for soup kitchens, orphanages, after school programs, medical clinics, and other social services throughout the West Bank.[246]

Popular support, regardless of the way it is garnered, is crucial for sustaining insurgencies, particularly those that include suicide terrorism. Pape notes that:

> Protracted campaigns of suicide terrorism require significant community support… without broad sympathy among the local population, suicide terrorist groups would be especially vulnerable to penetration, defection, and informants. They must therefore be popular enough that society as a whole would be willing to silence potential informants. Everyone may know who the terrorists are. No one must tell.[247]

Consequently, the rise and continued functioning of insurgent and terrorist groups, in the wake of HMIs, points to the popular support for these groups. More importantly, it points to the popular opposition to the new regime, occupation forces, and the willingness to pursue ever more violent means – undermining the entire HMI goal by escalating gross human rights violations.

Besides the local terrorist efforts, the terrorist organizations also take aim at the state(s) involved in the occupation, with the hope of eroding the political will for continued involvement in the region. If successful, the absence of further military and other forms of aid would weaken the new regime, and allow for the political power increase of the disenfranchised groups in the

[245] Sterngold, James. *Quake in Japan: Gangsters; Gang in Kobe Organizes Aid for People in Quake.* The New York Times. January 22, 1995. http://www.nytimes.com/1995/01/22/world/quake-in-japan-gangsters-gang-in-kobe-organizes-aid-for-people-in-quake.html Accessed on 1/15/17.
[246] Murphy, Kim. *Hamas Victory is Built on Social Work*. The New York Times. March 2, 2006. http://articles.latimes.com/2006/mar/02/world/fg-charity2 Accessed on 1/15/17.
[247] Paper, Robert A. *Dying to Win*. Pg. 81.

region. This leads to international terrorism of the kind seen in the US, France, Germany, Belgium, and elsewhere. The result is greater global instability, and states victimized by terrorism usually opting for human rights violations of their own – whether domestic or by further military attacks against the regions terrorists came from, in order to prevent further attacks.[248] There is also the problem of dealing with refugees, as seen in Germany, France, UK, Netherlands, and the US, given that the refugees and the terrorists tend to come from the same region, and the inability to tell the two apart. Thus, the refugees – in part produced by the HMI – are unable to be resettled, and are generally left to languish and die in subhuman conditions of camps little better than open-air prisons.[249]

The noted problems of occupation and regime change, coupled with the severe harm inflicted during the act of HMI, create a local instability that only seems to worsen over time. Between the government corruption, failure to provide basic services and security, the alienation of large segments of the population, and the terrorist efforts that bring further destruction of the people and the state, the new government is caught in a backslide into collapse. In fact, of the interventions that created regime change (Afghanistan, Iraq, and Libya),[250] all three are failing or failed states. The failure is owed directly to the increase of instability created by the HMI. The failing state is further caught in a spiral of human rights abuses, with the violence of the terrorists, political dissidents, the state and its proxies, and the occupying forces all engaged in

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[248] Case in point, France had remained ambivalent in joining the Syrian conflict, until the terrorist attacks in Paris. Following the attack, France began a campaign of bombardment of ISIS-held regions of Syria within 48 hours.
[249] The New York Times Editorial Board. *Freezing to Death at Europe's Door*. January 19, 2017. https://nyti.ms/2jDelUE Accessed 1/28/17.
[250] Libyan regime change was not a direct installation of a new government, but instead created a power vacuum in its destruction of the Gaddafi regime. Given that the aim of the intervention was the killing of Gaddafi and/or ousting him from power, the Libyan HMI is here classified as creating a regime change.

escalating the conflict. Consequently, the human rights violations become far more widespread than under the old regime, since the violence is no longer confined to some minority group.

As a side effect, the perception of HMI as anything but an imperial expansion effort also suffers. For the people on the receiving end of the HMI, the moral basis of HMI is seen as a form of propaganda, and the "protection of human rights" as an excuse for invasion, murder, destruction, occupation, and exploitation. The perception, deserved or not, is that HMI is a trick of Western imperialism, aimed at destabilizing and controlling foreign nations, particularly those whose resources or strategic position is in the national interests of the Western states. The claims of rescuing people from a tyrannical regime lose much of their force when measured against the historical support for tyrannical dictatorial regimes; support that often enough comes in the form of military aid and is wielded by the tyrant against his own people. Similarly, the selective application of HMI points to the human rights concerns as a mere pretext for imperialism. Such views serve to discredit HMI in the eyes of the populations of the targeted states, bolster resistance to occupation, and add fuel to the fire, which creates further instability and steadily drives the targeted state towards failure.

As Zolo and many others have argued,[251] a major problem for HMI is its inconsistent application. There are three apparent limiting factors when considering HMI: the expected military opposition, political value of the existing regime, and the resource/strategic value of occupation. The resources and strategic value of the state to be targeted seem to be the reason why interventions are not carried out in politically insignificant and poor regions – such as Rwanda, present-day Somalia, etc. The political value of existing regimes are the apparent

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[251] Zolo, Danilo. *Victor's Justice*. Pg. 53. AND
Zolo, Danilo. *Invoking Humanity*. Pg. 69.

reason why certain states, with a clear track record of human rights abuses, are perpetually overlooked (and even defended by veto in the UN) despite their clear and atrocious human rights violations – including genocide. The expected military opposition seems to be the reason why interventions are not carried out against powerful states – such as Russia in the case of Chechnya, India/Pakistan in Kashmir, or North Korea. These three limiting factors combine to project the appearance of imperial designs by the intervening powers. That is, if the intervention results in occupation or control of foreign government, and the targets are (almost) universally states that are of political interest to the intervening power that are too weak to resist such intervention, the (perhaps cynical) conclusion is of the intervening power imperial expansion to gain and safeguard its own political interests at the expense of others. Hedley Bull agreed with this idea, and argued that the Western ideology of humanitarian intervention in defense of human rights is the direct offshoot of the missionary and colonizing traditions of the West.[252]

When the imperial aspect is missing – say, in the genocidal extermination of Myanmar's Rohingya minority – the moral outrage is also absent. On the other hand, when the imperial aspect is present – say, in the build-up to the 2003 invasion of Iraq – moral outrage will grasp onto any pretext to justify the war as an act of HMI. This discrepancy then undermines even the justification of war for the purpose of resisting objective evil. While self-interest is an expected factor of the decision to engage in HMI, the failure to act against the same kinds of human rights violations in undesirable locations, etc. creates the perception that the violations are never the crucial issue, and thus help fuel the resistance that leads to the ever-increasing human rights abuses.

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[252] Bull, Hedley. "Human rights and world politics." In *Moral Claims in World Affairs.* Ed. R. Pettman. London: Croom Helm, 1978. Pg. 81.

As noted with Walzer, and commonly addressed in HMI literature, overcoming this perception remains a major hurdle for HMI. Without somehow resolving this problem, both the population of the targeted state, as well as the international community, remain highly skeptical of HMI, and commonly oppose it. To this end, many attempts have been made to limit HMI usage by some objective international legal standard, most notably R2P. However, the continued failure to intervene in undesirable locations, and the failure to address other, non-violent forms of severe human rights abuses (e.g. economic slavery, starvation, etc.) has only further undermined the global perception of HMI. The actual intentions of HMI application are, essentially, irrelevant to this problem. As Pape noted, perception is far more important than reality, especially when it comes to the response of the people afflicted with intervention. The history of Western colonialism and imperialism, along with the attendant nightmarish consequences, is generally reason enough to be skeptical of the "good will" of modern HMI.[253] So long as HMI is seen to be a tool of imperialistic expansion, HMI will result in resistance unto terrorism against the intervening power and the new regime it has sponsored. Consequently, the rejection of, and violent struggle against, HMI are the practically inevitable responses to HMI.

The HMI proponents and opponents alike agree that failed and failing states tend to become the breeding ground for political violence and terrorism. However, where terrorism comes in response to a domestic problem, it tends to remain confined to the specific region.[254]

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[253] It is also less than helpful that the HMIs are commonly attended by the use of loaded language, such as President Bush's unfortunate use of the term "Crusade" to describe the 2003 Iraq invasion. There is also the rather negative human rights track record of the military use of torture, unlawful imprisonment, and religiously intolerant attitudes and actions - sometimes as part of the official doctrine, sometimes by individual agents.

[254] While Hamas may get foreign funding, their mission is a domestic issue of the Israel-Palestine region. Given their tribal mindset, such groups do not tend to get meaningful contributions of foreign fighters, as the foreigners are not part of the tribal group - i.e. the foreign members are precluded from sharing in the actualization of the group's goals, as these are tribal in nature (liberation of tribal homeland). The same held for Sri Lanka's Tamil Tigers.

On the other hand, in cases of intervention, the foreign nature of the enemy creates an enmity transcending the borders of the targeted state. As a result, the international aspect of such enmity draws international response, and adds to international terrorism.[255] For this reason, domestic human rights violations and even traditional wars do not garner as strong a reaction as HMI, in terms of creating international terrorism.

Other Anomalies

There are two more anomalies that need to be addressed. Although they are ultimately intertwined with the preceding ones, they are not a part of the three groups above.

The first anomaly comes from the HMI paradigm idea that the use of HMI will act as a deterrent against future human rights violations. This line of reasoning is similar to the expectation that the creation of the League of Nations would lead to an end, or at least reduction in, war. However, just like the attempt to outlaw war, the use of HMI as a deterrent has failed. Given the noted perception of HMI as a tool for imperialistic expansion, the lesson drawn by various governments is that only overwhelming force can deter HMIs. Case in point, Afghanistan, Iraq, and Libya did not pose a significant threat to the intervening forces, and were thus attacked on the basis of HMI. North Korea and Iran (both part of the "Axis of Evil") do pose a significant risk to any would-be intervening forces, and so they have avoided intervention. The conclusion is that costly interventions are far less likely to take place. The best example of this

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[255] A good example can be found in the Soviet invasion and occupation of Afghanistan, which drew a sizable international response, in terms of foreign fighters. The US invasions of Iraq provides perhaps the best example of the international response in terrorism, because the Al-Qaeda brand was able to make inroads into Iraq not because of the human rights violations (which had been going on for quite a while), but because the occupation forces were foreigners (and worse, foreigners with radically different language, culture, and religion).

reality can be seen in Syria, where the Russian military backing of the Assad regime has prevented direct Western involvement against the regime. While the US (and allies) were perfectly willing to intervene against the Assad regime alone, they are unwilling to risk WWIII by attacking Russian military forces.[256]

Consequently, any government whose domestic policies may be perceived as somehow in violation of human rights (or which perceives itself to be of strategic importance to a major power and therefore colonially desirable to that power), whether directly or indirectly, has a strong incentive to invest in heavy militarization to deter HMI. It should be noted that, in a number of cases, the claims of human rights violations are not perceived to be such by the state (e.g. China's displacement of people in constructing the Three Gorges Dam). As the Bangkok declaration noted, the emphasis on individual or collective rights is a matter of cultural and contextual interpretation.

The second anomaly stems from a problem noted by Kofi Annan and termed "moral hazard" by Alan Kuperman.[257] The hazard arises from the fact that legally normalized HMI creates the ability for political dissidents and insurgents embroiled in a losing fight to trigger an HMI against the state, by provoking the state into an action that triggers HMI by the international community. It should also be added, though Kofi Annan failed to do so, that false flag operations by the dissidents and insurgents can serve the same purpose, even where the state actually refrains from violating human rights.

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[256] This fact has also prevented the implementation of "no-fly" zones over Syria, given that its enforcement would necessitate an attack on Russian forces.

[257] Annan, Kofi. *'We the peoples:' the role of the United Nations in the twenty-first century,* A/54/2000, 27 March, 2000. Para. 216. AND

Kuperman, Alan J. "The moral hazard of humanitarian intervention: lessons from the Balkans." 49-80. In *International Studies Quarterly.* 52:1, 2008.

There are some rather disturbing issues associated with the moral hazard. First, given the messy nature of domestic conflict, the veracity of the claims is very difficult to establish; meaning that the HMI is forced to either react on unproven claims, or to permit continued violations until the truth of the matter can be discerned. Second, it grants overwhelming military power to the first side that claims to be the victim of human rights violations. Third, it grants the losing side in a political fight the ability to win by foreign interference. Fourth, it incentivizes the pursuit of human rights violations (directly or indirectly) by the weaker side in a domestic conflict.

An interesting example is that of 2013 chemical attacks in Syria. While the US claimed that the use of prohibited chemical weapons was carried out by the Assad regime, UN observers like Carla del Ponte remain unconvinced by the evidence, and have stated that the attack may have well come from the Syrian rebels.[258] Considering that the Assad regime was winning by conventional means, and were aware that the conflict was being closely observed, it is hard to believe that they would use such weapons. On the other hand, the rebels were losing the fight, and the use of chemical weapons (to which they could have had access to) was sure to provoke an HMI response against Assad and assure their victory. In fact, if not for John Kerry's slip and timely Russian reaction, the US would have invaded Syria and deposed the Assad regime in 2013. This anomaly results in a strange situation, where the use of HMI to prevent human rights violations seems to lead to an increase of such violations, for political gain of the weaker/losing side.

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[258] BBC. *UN's Del Ponte says evidence Syria rebels 'used sarin.'*

Finally, given that HMI adherents often resort to quoting the Just War Theory in defense of the paradigm, it is interesting that the anomalies extend into this realm as well. The *Jus ad Bellum* requirements cannot be met on the grounds of *proportionality* and the fact that the outcomes of the HMI are objectively worse than the initial human rights violations. The *probability of success*, in light of historical catastrophic failure of every HMI, cannot be claimed in good faith.

The *Jus in Bello* requirements also seem unattainable, judging by the anomalous results. In terms of the *discrimination* and *proportionality* requirements, HMI inherently commits itself to human rights violations, disproportionately. The disproportionality of HMI comes from the fact that the infrastructure for the valid and invalid targets is one and the same, so that every step in disabling the human rights violators is a step against the civilian population. Worse, the long-term effects only apply to the civilian population, as the targeted regime and its military are dispatched relatively quickly, but the harms persist. Thus, the pursuit of HMI carries knowing and willing death and destruction of the state and its people, with known problems of discrimination and with disproportionate harm, effectively ignoring the *Jus in Bello* requirements. The same problems were noted in terms of compliance with IHL.

According to authors like Orend, the *Jus post Bellum* ability to justly end a war is a necessity not just at the close of the war, but from the very outset. Without a plan in place that specifies functional objectives to be accomplished, and a tenable method of concluding a war justly, the war itself cannot be just – as it results in morally unacceptable outcomes. The HMI paradigm has been shown to be incapable of achieving the results necessary by its "in and quickly out" position, and thus requires occupation and regime change. Given the theoretical and practical resistance unto suicide terrorism to the aims of HMI, the paradigm goals do not – and

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effectively cannot – provide a tenable *post Bellum* conclusion – as demonstrated by Afghanistan, Iraq, and Libya. Therefore, from the *post Bellum* perspective, the HMI is untenable.

Summary

In considering these anomalies, it becomes clear that they are generally the result of a conflict between the paradigm ends, and the means used to pursue them. That is, the ends are unattainable by the means. It is this discrepancy that lies at the heart of the HMI anomalies. However, the discrepancy is unresolvable, because HMI is premised on the use of military force as an integral component of the paradigm, not an incidental quality; and to discard the method is to discard the paradigm. The same issue would arise if one tried to obviate the Humanitarian or the Intervention elements of HMI.

While there may be further anomalies that could be noted regarding the applied elements of the HMI paradigm, the 11 considered above should be sufficient to demonstrate the point. Within the noted anomalies, every aspect of HMI paradigm goals, justifications, and applied methodology is shown to produce not only a failure to achieve the desired results, but to create the exact opposite effect.

Instead of a cessation of killing and human rights violations, there is an increase in both, by the act of intervention and its long-term consequences. Instead of reestablishment of stability, there is an immediate and a long-term increase of instability (first by the act of HMI, then by long-term consequences of intervention). Instead of protecting the regional/global stability, the violence, terrorism, and refugees create a significant increase in instability the world over. Instead of preventing the threat of future war, war is guaranteed by the intervention, and then

compounded by violent political opposition and terrorism. Instead of preventing state failure and proliferation of terrorism, the intervention sets up all the circumstances needed to ensure state failure, along with encouraging both domestic and global terrorism. Instead of creating a political landscape more likely to be amenable to human rights protection, the HMI creates expanding human rights catastrophes. Instead of deterring human rights violations, it deters the ability to pursue HMI. Instead of disincentivizing human rights violations in conflicts, it incentivizes them for political gain.

The HMI paradigm goals and methodology presented in this chapter are not merely theoretical ideals of HMI adherents and interventionist thinkers. These ideas and policies have translated into US and other military involvement around the globe over the past few decades, with three failed states, well over a million dead, and roughly $5 trillion in cost to the US alone. Despite the apparent failure to achieve its goals, the HMI paradigm ideology remains at the forefront of the US (and Western) foreign policy. As noted, high-ranking political figures, such as Samantha Power, continue to insist upon the validity and continued use of HMI, despite the lack of any demonstrable evidence of success. This adherence to the paradigm is based on an article of faith, moral absolutism of intent, and the Manichean binary worldview, which justifies any action – as long as it is undertaken as moral opposition to objective evil.

The HMI paradigm is demonstrably present and called-upon in continued justification for military involvement around the globe. As such, the decision to accept or reject the paradigm has existential and long-lasting consequences – both for those who use HMI, as well as those affected by its use. Failure to carefully consider the implications of anomalies, or to press on without regard for them, is a matter of grave moral negligence – all the more crucial for HMI's claim of morally-based paradigm and *Weltanschauung*.

The aim of this chapter has been to bring to light the anomalies of the HMI paradigm in application. In doing so, the paradigm is confronted with a demonstrative failure to achieve its goals. Further, these failures seem to result only in the increase of the very problems the paradigm seeks to address. From the Kuhnian perspective, such an array of anomalies, covering the entire scope of paradigm applications, strongly suggests the presence of a crisis. As mentioned in Chapter II, crises result in one of two options: either a significant reconfiguration of the paradigm which resolves the anomalies (preserving at least some portion of the original paradigm), or a complete paradigm failure and replacement. Given the HMI paradigm inability to accomplish its goals, and the active worsening of the problems it attempts to resolve, paradigm failure seems a far more likely option.

CHAPTER VI:

CONCLUSION

Humanitarian military intervention (HMI) is the ideology and methodology of using military force against a state, as a result of its domestic policies that are considered violations of human rights – usually limited to acts of genocide and ethnic cleansing. Over the past 3 decades or so, HMI has become the primary justification for war, while the use of traditional justifications has dwindled. Further, the use of HMI for justifying wars has greatly increased over that time – including the *post facto* re-classification of the Afghanistan and Iraq invasions. This creates a sense of urgency in addressing some serious problems for the practice.

HMI is troubled by problems, ranging from international law to its historical track record. The HMIs in Afghanistan and Iraq have resulted in over a million casualties, and the four major HMI efforts of the 21st century – Afghanistan, Iraq, Libya, Syria (and now Yemen) – have all led to failed or failing states, and population displacement in the tens of millions. HMI adherents treat all such problems as statistical outliers, or failure to fully implement the HMI vision or, at best, an indication that a certain amount of fine tuning is necessary. Crucially, the validity of HMI is not questioned, and its claims are accepted as axiomatically true (especially those justifying war). While many thinkers have raised arguments against some aspect or another of HMI, all the criticism has amounted to little more than a fruitless debate, with no meaningful resolution in sight. Meanwhile, the practice goes on, with significant risk of further HMI engagements.

Kuhn's idea of paradigms offers a different way to view HMI and its problems. His *Structure of Scientific Revolutions* posits paradigms as complex holistic systems, and traces their creation, function, development, and ultimate failure and replacement. A paradigm approach would render HMI not as a series of distinct arguments, but as a holistic system, with its own internal logic. As a paradigm, HMI also takes on a recognizable structure, whose relations, values, and ordering can be captured in a systemic way. Once it is understood as a paradigm, the nature of HMI problems also takes on a different form. So long as the problems are not systemic failures, the paradigm gets to ignore them. If they are systemic, they become anomalies, which may lead to a paradigm crisis and failure. The key benefit of taking the paradigm approach is that the analysis does not need to concern itself with particular arguments used by the paradigm – it need only demonstrate the failures of the paradigm as systemic and unresolvable anomalies. As a result, there is no need to argue that genocide is not a moral evil, only that HMI is demonstrably incapable of providing a solution. Considering HMI as a paradigm results in a binary conclusion: either the paradigm can resolve the full range of anomalies, or the paradigm fails. Regardless of the outcome, the ethical position regarding HMI benefits from the forced clarification. This justifies the use of Kuhn's paradigm structure for the examination of HMI.

The development of political theory by philosophers like Locke, Kant, and Mill made significant contributions on the topic of intervention and state sovereignty. Following the end of WWII, modern HMI began to congeal out of these efforts, and started to insert itself back into modern international relations. With the fall of the Soviet Bloc, and the consequent rash of civil wars, HMI became consistently used as a justification for foreign involvement. The use of HMI went from a secondary war justification to a primary one, and is now argued to be the primary justification – even after the fact – as in the case of Afghanistan and Iraq.

The historical trajectory of HMI helps to identify a number of crucial elements and relations within the paradigm, starting with the paradigm axioms. The HMI axioms are universal morality (moral absolutism), universal human rights for all people as citizens of the world, moral obligation to protect such human rights, and the teleology of morality (the arc of the moral universe is long, but it bends towards justice). This axiomatic superstructure then creates the theoretical framework of HMI, which can be summarized as moral absolutism standing in opposition to objective evil, as a means of protecting and enforcing human rights domestically and internationally. Such action does create a moral danger, but is necessary despite the prospect of dirty hands.

From the theory comes the applied methodology. For HMI, war is a tool for protecting and enforcing human rights on the international level, the same way that intrastate policing protects them domestically. As a defense of human rights, HMI seeks to use war to stop or prevent gross human rights violations and restore stability to the targeted state and/or region. The issue of stability is a corollary to human rights violations, where instability is an indicator of their presence. The three primary justifications offered publicly are the threats of local/regional instability, of future war, and of state failure and terrorism. However, all such justifications, for HMI, reduce to the problem of gross human rights violations. The HMI vision of the world is a cosmopolitan society; internationally protecting human rights. This can only happen when the various states submit themselves (or are subjugated) under a single banner of universal morality by respect for human rights. With these goals, justifications, and objectives, the act of war is an internally coherent paradigm strategy.

Although the use of war is coherent within the paradigm, it is incoherent in actual application (externally). The preponderance and consistency of anomalies is present in every

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example of HMI. Beyond the applied anomalies of HMI, there are two other issues to consider. The HMI paradigm claims a set of universal moral principles, on which it builds the paradigm. However, despite claims of universality, the majority of the global population and their governments (including democratic ones) reject the HMI morality either in its entirety or in its Western interpretation (i.e. focused on extreme individualism). The Bangkok declaration and Vienna dissent (representing some 50% of world population) makes this point clear. Consequently, the very basis from which the HMI paradigm projects itself is not universally accepted. The use of a moral absolutist position is also an objective move against the principles of international law and state sovereignty. Consequently, though the HMI paradigm is internally consistent, the consistency alone does nothing to significantly differentiate it from earlier religious and imperial paradigms, which sought world peace by violent destruction of dissident peoples and ideologies. It is a tautology to say that, if everyone agreed with me, there would be no cause for argument.

Leaving aside the serious reasons for skepticism towards the HMI paradigm, the problem of anomalies in the applied methodology of HMI is the core concern of the analysis. Again, it is not an argument that destroys the paradigm, but the demonstration of failure to deliver – exemplified in anomalous results. The anomalies presented came in one of four categories.

The first category is the *Act of HMI,* which demonstrates the anomalies arising from disproportionate and indiscriminate harm to civilian populations, resulting in severe human rights violations by the intervening forces – and creating short term instability by intervention. The second category*, HMI Limits*, demonstrates the anomalies of using military force to solve political problems. The anomalies in this category include the untenability of merely preventing killing, and thus the failure of the "in and quickly out" approach. This leads to the anomalies of

regime change, and those of occupation. The third category, *Long-term HMI Instability*,

demonstrates a complex of anomalies that arise out of making HMI into a practice of occupation,

which invariably leads to anomalies of state instability and failure. Finally, the category of

Other Anomalies demonstrated that using HMI as a deterrent against human rights violations

does not work to deter human rights violations, and may actually encourage them.

The anomalies represent total failure of HMI goals and justifications. The killing

continues, state stability is reduced in the short term, refugees and regional/global instability

increases, war is guaranteed, state failure is assured in the long term, terrorism proliferates,

regime change is delegitimized by its own populace, and all claims of humanitarianism are

rejected and violently resisted by the occupied population. Not only does HMI not accomplish its

goals, it actively exacerbates the very problems that had "justified" it. The situation seems,

literally, worse than it would have been if the initial human rights violations were entirely

ignored. This means that, in the pursuit of human rights protection and enforcement, HMI seems

to only cause additional gross human rights violations.

The HMI paradigm produces anomalies that cover every aspect of its applied methods,

and work at cross purposes with the paradigm goals. Given the persistent and systemic

anomalies, the HMI paradigm is in an apparent Kuhnian crisis. Its claims have come out of joint

with reality, its predictive power has vanished in application, and the claims of human rights

protection cannot stand up to the fact that the HMI causes human rights violations on a level that

would otherwise be described as genocidal. The lack of positive HMI examples and the

preponderance of HMI disasters, is a clear demonstration of the conflict between the paradigm

ends and its means. The conclusion is that the goals and means of HMI are necessarily in

conflict.

However, the moral absolutism of the HMI ends blinds its adherents to the failure of the means, and ultimately to the failure of the paradigm. This blindness precludes any comparative analysis of harm to be done and the harm to be prevented, because the righteousness of the cause is what matters. Yet, if our attempts to save lives always also take lives, at what point does some kind of moral calculus enter into the equation? At what point do the ends no longer justify the means? From the HMI standpoint, dirty hands are an inevitable side-effect of moral action. However, this thesis cannot hold indefinitely. At some point, the hands of the "righteous" become more bloodstained than those of the moral monsters they sought to stop. The HMI adherents argue for the continued pursuit of HMI on moral grounds, since they see the failure to act against human rights violations as a moral monstrosity and an act of moral treason. Thus, for HMI adherents, the redeeming quality of HMI is the idea that it pursues moral ends.

From an objective standpoint, HMI fares little different than the moral monsters they seek to stop. The noted anomalies create the same or worse kinds of disproportionate death and destruction – though it is usually a different set of civilians who bear the brunt of that horror. In light of the degree and scope of human rights violations created by the HMI, the good intention of the "righteous" becomes irrelevant.

The crisis of HMI must be faced head-on. With the number of HMIs carried out over the past three decades or so, all the evidence necessary to objectively examine its value is present. The anomalous outcomes at every step can no longer be brushed aside as statistical outliers. Without a single clear "win" for the paradigm, its state of crisis is hard to deny for any but the most zealous adherent. Then again, any amount of evidence would be insufficient to persuade them out of their religious fervor. A critical analysis of the anomalies and consequences of HMI does not require a utilitarian approach to conclude that HMI is a failed paradigm. Any morality

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that does not insist solely on the intent of the agents, while disregarding consequences of action, will do – religious or secular.

Kuhn argues that the realization of paradigm failure cannot lead to a rejection of the paradigm, until its replacement is found. It is only through the failed paradigm that a new one can emerge, and finally put the old one to rest. This wait for a new replacement paradigm cannot go on for HMI in the same way that Kuhn says it must for science. For Kuhn, the stakes are merely a period of low scientific productivity, until a new paradigm is found. For HMI, as a paradigm of war, the stakes are existential. On this point, one could cite everyone from Sun Tzu to Machiavelli; from the Bhagavad Gita to Clausewitz. War is a question of life and death, and getting it wrong kills not only the ruler or the political establishment in question, but civilians in the hundreds of thousands. Modern war, in particular, must not get it wrong – not when modern technology can wipe cities and countries off the map, and not when the murder and displacement rates quickly reach into millions.

We cannot wait for a replacement paradigm, because in the continued use of the existing one, states are failing or have failed. The costs of reversing such outcomes (monetary, political, human) are colossal – if a reversal is even possible. With infrastructure destroyed, population exodus, death and destruction, civil war, terrorism, and other problems, it is entirely unclear *how* these states are to be put back together. It is also entirely unclear *who* will put them back together, and shoulder the enormous political and fiscal responsibility of doing so. In the meantime, the human rights violations that have resulted directly or indirectly from the HMI are far above anything the original violations could have hoped to achieve.

However, this abandonment of the HMI paradigm does not necessarily leave us entirely adrift, rudderless amidst the problems of domestic human rights violations. The HMI paradigm

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does not hold the monopoly on moral claims against human rights violations, nor are the paradigm's military methods a necessary part of respect for human rights. That is, one can hold the moral position of human rights violations as heinous and necessitating a need to act, without holding the idea of military intervention as a necessary – or even a legitimate – response. HMI is not the only currently paradigm of international relations. Other paradigms include pacifism and realism, and their many variations. Consequently, abandoning the HMI paradigm does not result in abandoning the entire project of addressing human rights. Instead, it results only in the abandonment of a system which is demonstrably incapable of achieving its stated goals.

Here lies a crucial point of the analysis: the argument is not that human rights violations unto genocide should be ignored. Rather, the military intervention method inherent to the HMI paradigm is incapable of providing any meaningful resolution to the problem. Abandoning the HMI is not a capitulation to some objective evil, but a capitulation of a failed methodology, in pursuit of a functional one.

WORKS CITED

Al Ghazali, Muhammad. *Munkidh min al-Dalal (Deliverance from Error*). In *The Faith and Practice of Al-Ghazali* by Montgomery Watt. Tr. Montgomery Watt. London: George Allen and Unwin Ltd., 1951.

Ames, Roger T. and Rosemont, Henry Jr. *The Analects of Confucius: A Philosophical Translation.* New York: Ballantine Books, 1998.

Annan, Kofi. *'We the peoples:' the role of the United Nations in the twenty-first century,* A/54/2000, 27 March, 2000.

Annan, Kofi. Speech given to the Nobel Foundation. Oslo, Norway, December 10, 2001. Available at: www.nopbel.se/peace/laureates/2001/annuallecture.html

Asimov, Isaac. "Reason." In *I Robot*. New York: Spectra, 1991.

Assenova, Margarita. *Russia-Ukraine War's Impact on European Energy—A Net Assessment of Developments in Europe's Energy Security Strategy Since the Start of 2014*. Eurasia Daily Monitor; Vol 11, Issue 185. October 20, 2014. https://jamestown.org/program/russia-ukraine-wars-impact-on-european-energy-a-net-assessment-of-developments-in-europes-energy-security-strategy-since-the-start-of-2014/ Accessed on 1/3/17.

Bangkok Declaration. April 2, 1993. http://faculty.washington.edu/swhiting/pols469/Bangkok_Declaration.doc Accessed on 9/6/16.

BBC. *UN's Del Ponte says evidence Syria rebels 'used sarin.'* May 6, 2013. http://www.bbc.com/news/world-middle-east-22424188 Accessed on 1/25/17.

Beauchamp, Zack. *Kunduz: The Taliban's Biggest Victory in Years, Explained.* VOX: September 29, 2015. http://www.vox.com/2015/9/29/9415293/kunduz-taliban Accessed on 1/20/17.

Bellamy, Alex J. "Responsibility to Protect or Trojan Horse." 31-54. In *Ethics and International Affairs.* Vol. 19, Issue 2, September 2005.

Bellamy, Alex J. "The Responsibility to Protect and the Problem of Military Intervention." 615-639. In *International Affairs*. Vol. 84: 4 (2008).

Berti, Benedetta. *The Surprising Way Groups like ISIS Stay in Power*. Ted Talk, August 2015. https://www.ted.com/talks/benedetta_berti_the_surprising_way_groups_like_isis_stay_in_power/transcript?language=en Accessed on 3/15/16.

Body Count. *Casualty Figures After 10 Years of the War on Terror – Iraq, Afghanistan, Pakistan.* Washington DC: PSR, March 2015.

Bull, Hedley. "Human rights and world politics." In *Moral Claims in World Affairs*. Ed. R. Pettman. London: Croom Helm, 1978.

Carter, Jimmy. Speech 1977. https://history.state.gov/departmenthistory/short-history/carter Accessed on 10/26/16.

"Countries with the highest number of deaths by terrorism in 2015, by percentage of total deaths." https://www.statista.com/statistics/377061/countries-with-the-highest-number-of-deaths-by-terrorism/ Accessed on 2/8/17.

Elie, Paul. "A Man for All Reasons." The Atlantic. November 2007. https://www.theatlantic.com/magazine/archive/2007/11/a-man-for-all-reasons/306337/ Accessed on 1/9/17.

GlobalSecurity.org http://www.globalsecurity.org/military/world/afghanistan/corruption.htm Accessed on 1/29/17.

Haass, Richard N. "The Changing Nature of Sovereignty." Speech given to the School of Foreign Service, Georgetown University, Washington. D.C., January 14, 2003.

Hesse, Mary B. "Models and Analogy in Science" In *Encyclopedia of Philosophy*. Vol.5. Ed. Paul Edwards. New York; MacMillan & Free Press, New York, 1972.

ICRC. "What is International Humanitarian Law?" 07/2004. https://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf Accessed on 4/3/17.

International Justice Resource Center. "International Humanitarian Law." http://www.ijrcenter.org/international-humanitarian-law/ Accessed on 4/3/17.

Kant, Immanuel. *Critique of Pure Reason*. Tr. Norman Kemp Smith. New York: St Martin's Press, 1965.

Kant, Immanuel. *Perpetual Peace*. In *Kant: Political Writings*. 93-175. Ed. Hans Reiss. Tr. H. B. Nisbet. New York: Cambridge University Press, 1991.

Kant, Immanuel. "What is Enlightenment?" 54-60. In *Kant: Political Writings*. Ed. Hans Reiss. Tr. H.B.Nisbet. New York: Cambridge University Press, 1991.

Kelsen, Hans. *Peace Through Law*. Chapel Hill: University of North Carolina Press, 1944.

Kube, Courtney and Windrem, Robert. *Did Obama Defeat ISIS in Libya?* NBC News. January 28, 2017. http://www.nbcnews.com/news/world/did-obama-defeat-isis-libya-n709001 Accessed on 1/30/17.

Kuhn, Thomas S. *The Structure of Scientific Revolutions*. Chicago: The University of Chicago Press, 1962.

Kuperman, Alan J. "The moral hazard of humanitarian intervention: lessons from the Balkans." 49-80. In *International Studies Quarterly*. 52:1, 2008.

League of Nations. Vol. III, Nos. 1-2. Feb – April 1920.

Masterman, Margaret. "The Nature of a Paradigm." 59-89. In *Criticism and the Growth of Knowledge*. Ed. Imre Lakatos and Alan Muskgrave. London; Cambridge University Press, 1970.

Mill, John Stuart. *A Word on Non-Intervention*. London: Foreign Policy Perspectives #8. 1859.

Mill, J.S. "Letter to James Beal." 1865. 22-6. In *The Letters of John Stuart Mill*. Vol II. Ed. Hugh S.R. Elliot. London: Longmans, Green & Co., 1910.

Miller, Kenneth E. "John Stuart Mill's Theory of International Relations," In *Journal of the History of Ideas*, 22, 4 (Oct.-Dec. 1961).

Machiavelli, Niccolò. *The Prince.* Tr. Tim Parks. New York: Penguin Books, 2009.

McClay, Willfred M. "Obama's Favorite Theologian? A Short Course on Reinhold Niebuhr. The Faith Angle Conference. May 4, 2009. Pub. Pew Research Center. Transcript. http://www.pewforum.org/2009/05/04/obamas-favorite-theologian-a-short-course-on-reinhold-niebuhr/#1 Accessed on 1/4/17.

Mencius. *Mencius*. Ed,Tr. D.C. Lau. New York: Penguin Books, 2004.

Murphy, Kim. *Hamas Victory is Built on Social Work*. The New York Times. March 2, 2006. http://articles.latimes.com/2006/mar/02/world/fg-charity2 Accessed on 1/15/17.

Moyn, Samuel. "John Locke on Intervention, Uncertainty, and Insurgency." 113-131. In *Just and Unjust Military Intervention*.

Nardin, Terry. "Humanitarian Imperialism." 21-26. In *Ethics and International Affairs.* Vol. 19, Issue 2, September 2005.

National Geographic News. *China's Three Gorges Dam by the Numbers.* http://news.nationalgeographic.com/news/2006/06/060609-gorges-dam_2.html Accessed on 12/20/17.

Niebuhr, Reinhold. *The Nature and Destiny of Man: A Christian Interpretation.* Vol. 2. 1943. Louisville: Westminster John Knox Press, 1996.

Orend, Brian. *The Morality of War*. 2nd ed. Peterborough: Broadview Press, 2013.

Pape, Robert. *Dying to Win: The Strategic Logic of Suicide Terrorism*. New York: Random House, 2005.

Plato. *The Republic*. Tr. G.M.A. Grube. Indianapolis: Hackett, 1992. Book II.

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

Power, Samantha. Speech to the Center for American Progress. September 6, 2013. https://www.washingtonpost.com/news/worldviews/wp/2013/09/07/samantha-powers-case-for-striking-syria/?utm_term=.e7b7b89abde4 Accessed on 12/23/16.

Rawls, John. *The Law of Peoples.* Cambridge: Harvard University Press, 1999.

Rubin, Alissa J. *Oil Wealth divides Iraqis.* Los Angeles Times. August 1, 2005. http://articles.latimes.com/2005/aug/01/world/fg-power1 Accessed on1/28/17.

Shiraz, Maher. *Salafi-Jihadism: The History of an Idea.* London: C. Hurst & Co., 2016.

Singer, Peter. "Famine, Affluence, and Morality" and "The Singer Solution to World Poverty" In *Writings on an Ethical Life,* by Peter Singer. 105-117, 118-124.New York: The Ecco Press, 2000.

Stanton, Gregory. *The Ten Stages of Genocide*. Washington DC. 2013. http://genocidewatch.org/genocide/tenstagesofgenocide.html Accessed on 1/15/17.

Sterngold, James. *Quake in Japan: Gangsters; Gang in Kobe Organizes Aid for People in Quake.* The New York Times. January 22, 1995. http://www.nytimes.com/1995/01/22/world/quake-in-japan-gangsters-gang-in-kobe-organizes-aid-for-people-in-quake.html Accessed on 1/15/17.

Syrian Refugees. *A Snapshot of the Crisis – in the Middle East and Europe.* http://syrianrefugees.eu/ Accessed on 11/7/16.

The Covenant of the League of Nations. Article 15. Available at: http://avalon.law.yale.edu/20th_century/leagcov.asp Accessed on Nov. 3, 2016.

The New York Times Editorial Board. *Freezing to Death at Europe's Door*. January 19, 2017. https://nyti.ms/2jDelUE Accessed 1/28/17.

Tuck, Richard. *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*. New York: Oxford University Press, 1999.

United Nations Charter

United Nations. *Effects of the use of Armaments and Ammunitions Containing Depleted Uranium.* Report of the secretary General. July 24, 2008. A/63/170. http://www.bandepleteduranium.org/en/docs/52.pdf Accessed on 1/30/17.

UN General Assembly: Human Rights Council *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue* [A/HRC/17/27] http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf

UNSC 5015th meeting, S/VP.5015, July 30, 2004.

United Nations Office on Drugs and Crime. *Afghanistan Opium Survey 2016.* December 2016.
http://www.unodc.org/documents/crop-monitoring/Afghanistan/Afghanistan_opium_survey_2016_cultivation_production.pdf
Accessed on 1/29/17.

Walzer, Michael. "The Argument about Humanitarian Intervention." 29-37. In *Dissent.* Winter
2002. https://www.dissentmagazine.org/article/the-argument-about-humanitarian-intervention

Wesley, Michael. "Towards a Realist Ethics of Intervention." 55-72. In *Ethics and International Affairs.* Vol. 19, Issue 2, September 2005.

Winks, Robin W. et. al. *A History of Civilization: Prehistory to the Present*. Englewood Cliffs:
Prentice Hall, 1992.

Wit, E. C. *Kant and the LImits of Civil Disobedience*. University of Chicago, 1997.
http://www.math.rug.nl/~ernst/kant.htm Accessed on 12/20/16.

World Federalist Movement – Institute for Global Policy. *Summary of The Responsibility to Protect.* Pg. 4. http://www.responsibilitytoprotect.org/files/R2PSummary.pdf

Xunzi. *Debating Military Affairs.* In *Hsün Tzu: Basic Writings.* Tr. Burton Watson. New York:
Columbia University Press, 1963.

Zolo, Danilo. *Invoking Humanity*. New York: Continuum, 2002.

Zolo, Danilo. *Victor's Justice*. New York: Verso, 2009.

Zwijnenburg, Wim. *Laid to Waste: Depleted Uranium Contaminated Metal Scrap in Iraq.*
Colophon, 2014.