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POSTWAR JUSTICE AND THE RESPONSIBILITY TO REBUILD

Just and Unjust Postwar Reconstruction: How Much External Interference Can Be Justified?

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The age of empire ought to have been succeeded by an age of independent, equal, and self-governing nation-states. In reality, it has been succeeded by an age of ethnic cleansing and state failure. This is the context in which the Empire has made its return.

Michael Ignatieff, *Empire Lite*

In recent years the world's wealthy and powerful nations have become increasingly involved in the reconstruction of failed states following violent conflict. This has led to the establishment of international peace operations in such diverse places as Cambodia, Bosnia-Herzegovina, Kosovo, Liberia, Afghanistan, and Iraq, to mention just some of the better known examples. The many complex policy challenges resulting from these international involvements have been fruitfully discussed in the scholarly literature.[1] However, there have been surprisingly few systematic analyses of the wide-ranging ethical dilemmas raised by such intrusive international reconstruction efforts. It is only following the U.S.-led invasions of Afghanistan (2001) and Iraq (2003) that a debate on *jus post bellum*—justice after war—has slowly begun to emerge; yet to date, the focus of this normative scholarship has been mainly on the aftermath of traditional interstate wars, with little attention paid to societies torn apart by civil conflict.[2]

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Most *jus post bellum* theorists adopt an explicitly cosmopolitan standpoint, and several of them suggest that the overarching goal of human rights vindication justifies considerable, protracted interference in the domestic affairs of vanquished states.[3] Meanwhile, influential writers and pundits provocatively claim that the world's powerful nations should establish quasi-permanent trusteeship arrangements over deeply divided, war-torn societies for the sake of enforcing political stability, fighting terrorism, and protecting human rights. Harvard historian Niall Ferguson, for instance, proposes that "for *some* countries some form of imperial governance . . . might be better than full independence, not just for a few months or years but for decades."[4] Against such views, I suggest that protracted international trusteeship over fragile war-torn societies is not only dubious from a strategic point of view, given that it might result in a dangerous culture of dependency among the local population, but is highly problematic from a liberal ethical standpoint as well.

This article seeks to reconcile a fundamental normative tension that underlies most contemporary international reconstruction efforts in war-torn societies: on the one hand, substantial interference in the domestic affairs of war-torn societies may seem desirable to secure political stability, set up inclusive governance structures, and protect basic human rights; on the other hand, such interference is inherently paternalistic—and thus problematic—since it deliberately restricts the policy options and broader freedom of maneuver of domestic political actors.

In the first part of the article I briefly discuss classical liberal attitudes toward international paternalism and colonial rule. I show that nineteenth-century liberals, in particular, made some useful conceptual claims on the admissibility of international paternalism in the face of structural impediments to self-rule. Yet we ultimately ought to reject the substance of these classical liberal arguments on the grounds of their flawed anthropological assumptions concerning the "barbaric" nature of non-European peoples. Paternalistic interference in foreign countries is acceptable today only to overcome *political* (as opposed to racial or cultural) impediments to collective self-rule and basic rights protection; that is, to neutralize dangerous centrifugal forces at the domestic level and (re-)establish strong and inclusive local institutions. Moreover, I argue that for paternalistic interference to be justified, it needs to be strictly proportional to those domestic impediments.

Based on this assumption, in the second part of the paper I model different degrees of interference that are admissible at particular stages of the postwar reconstruction process. Extrapolating from John Rawls's *The Law of Peoples*,

I suggest that full-scale international trusteeship can be justified only so long as conditions on the ground are genuinely "outlaw"—that is, so long as security remains volatile and basic rights, including the right to life, are systematically threatened. Once basic security has been reestablished, a lower degree of paternalistic interference continues to be justified until new domestic governance structures become entirely self-sustaining. During this second phase of postwar reconstruction external actors ideally ought to *share responsibility* for law-enforcement and administration with domestic authorities, which implies in practice that domestic and international officials should jointly approve all major decisions. I discuss various approximations of such shared responsibility in recent international peace operations, and I conclude by speculating about how best to ensure a timely transition toward full domestic ownership.

Liberalism and International Paternalism

I consciously approach the ethics of postwar reconstruction from a liberal viewpoint, for several reasons. At the risk of oversimplification, liberalism can be identified with an essential principle: the importance of the *freedom of the individual*. This principle encapsulates a belief in the importance of moral freedom, or the right to be treated as an ethical *subject*, rather than an object or means, and the duty to treat others in the same way.[5]

At the political level, liberalism in its various guises has always been concerned with freeing individuals from tyranny by providing them with consent-based political institutions. However, leading liberal internationalists such as Immanuel Kant, John Stuart Mill, Giuseppe Mazzini, and John Rawls have consistently emphasized that each "people" ought to work out *their own* institutions and governance structures, in accordance with the principle of popular self-determination. Rawls insists that self-determination "is an important good for a people, and . . . the foreign policy of liberal peoples should recognize that good and not take the appearance of being coercive."[6] We therefore have intrinsic moral reasons to adopt a liberal framework when discussing the ethics of postwar reconstruction: the foreign policy of all states, and of liberal states in particular, should help war-torn societies to develop new, inclusive self-government structures without imposing any long-term political solutions from the outside.

Moreover, empirically speaking, liberalism enjoys a privileged position in contemporary world affairs, given that influential actors, such as the United States

and its Western allies, publicly emphasize their allegiance to liberal values. Thus, from a pragmatic perspective, too, it makes sense to adopt a liberal theoretical framework: doing so allows us to evaluate current international reconstruction efforts and related interference in foreign countries on the basis of the very normative paradigm that is so widely relied upon to justify those policies.

The main normative problem with most contemporary international efforts at postwar reconstruction is not that they are inherently exploitative and imperial (whenever this is the case, external interference is ipso facto morally unjust and can be directly condemned). Rather, powerful nations, operating through formal organizations such as the United Nations or loose multinational coalitions, often interfere in the domestic affairs of war-torn societies in a deliberately paternalistic manner, constraining the policy options of domestic political actors for the target society's own putative benefit. Such deliberately paternalistic interference results in a set of more intricate normative problems. The central question then becomes: Can paternalism in foreign affairs ever be justified from a liberal viewpoint—and, if so, under what conditions?

Classical Liberalism

The classical European liberals had already thought quite systematically about the admissibility of paternalism in politics, and specifically in international relations. Enlightenment liberals such as John Locke and Immanuel Kant insisted on the natural equality of human beings everywhere; thus, they condemned paternalistic political relationships aimed at "civilizing" foreign peoples without appeal. For Locke, the main difference between parent–child relationships and political affairs was precisely that paternalism is admissible in the former but not in the latter. Children are immature beings that need to be educated and guided; adults, by contrast, are generally capable of expressing coherent political preferences and thus should never have policies imposed upon them by despotic kings or foreign imperial rulers. To be sure, Locke justified British colonialism in North America, but he did so based on his theory of property acquisition through labor, which has little or nothing to do with paternalistic projects aimed at civilizing putative barbarians. Writing in the late eighteenth century, Kant likewise condemned paternalism in politics, domestic as well as international, as "the greatest conceivable *despotism*."[7] Kant's principled opposition to paternalism in foreign affairs goes hand in hand with his strong support of popular self-determination and his rejection of colonial rule.

Yet only a few decades later, as the industrial revolution took off in western Europe following the Napoleonic wars, educated elites there—conservative as well as progressive—began to develop a distinct sense of moral and intellectual superiority over foreign peoples. The idea took hold that people first needed to achieve a certain stage of moral and social development before they could sustain civil and political liberties and freely determine their own future. This new outlook entailed a rejection of Enlightenment natural-rights theories, and it opened the door to international paternalism as a means to "civilize" foreign peoples. Prominent nineteenth-century liberals, including Mill, Mazzini, and Alexis de Tocqueville, thus provided blatantly paternalistic justifications for European colonialism. According to Mill, for instance, the subjection of "barbaric" peoples to a foreign government, "notwithstanding its inevitable evils, is often of the greatest advantage to a people, carrying them rapidly through several stages of social progress."[8]

Nineteenth-century liberals portrayed the putatively barbarous nature of the individual men and women living in faraway places in Asia, Africa, and elsewhere as the cause of broader social and political backwardness. Hence, those barbarous individuals first had to be educated by benevolent colonialists to think rationally and to obey general laws before they could collectively govern themselves. In an important sense, as one scholar has argued, the mission of nineteenth-century liberal colonialism was "to *create* humanity where none had previously existed."[9]

Contemporary Liberalism

Seeking to establish the limits of admissible international paternalism from a present-day liberal viewpoint, it is useful to start from the aforementioned arguments developed by distinguished nineteenth-century liberals. On the one hand, these classical liberals made the cogent conceptual claim that international paternalism, while prone to abuses and therefore inherently problematic, can be justified in the face of structural impediments to self-government that make it impossible for a people to freely determine its own future. On the other hand, we know today that the anthropological foundations of the classical liberal argument in support of paternalism and colonial rule were scientifically unsound, to say the least. Most of the societies targeted by European colonialism—and certainly India, which stimulated most of Mill's reflections on this matter—were effectively self-governing on their own terms, while imperial rule was often an obstacle to further progress. Hence, the nineteenth-century liberals' arguments, while not inherently racist or otherwise deterministic, today strike us as morally untenable.

International paternalism that aims to civilize foreign societies and their inhabitants is plainly unacceptable from a present-day liberal standpoint. Indeed, contemporary international efforts at postwar reconstruction arouse moral suspicion as soon as they attempt to impose specific values and goals upon a native population. Liberals should have no desire for an updated version of the colonial *mission civilisatrice.*[10] The only justifiable purpose of international paternalism today is to assist war-torn societies to overcome political impediments to collective self-government resulting from deep ethnic or sectarian divisions and/or failed governance structures. Ultimately, such international interference ought to empower postwar societies to peacefully determine and implement their own vision of the good life.

Political philosopher Dennis Thompson suggests that the problem of paternalism is best conceived "not as a question of choosing between liberty and paternalism but as a question of reconciling paternalism with liberty."[11] In other words, paternalistic interference is justified when it can be reconciled with the principle of liberty—that is, when it benefits a subject whose autonomy is seriously impaired due to lack of knowledge or ability, and who is therefore "unfree" in a morally relevant sense. I argue that the inhabitants of war-torn societies are often *collectively unfree* because of serious political impediments to popular self-determination. If narrowly circumscribed and adequately managed, paternalistic interference can be freedom-enhancing under similar circumstances and is, therefore, morally justified.

Multilateral Authorization and Implementation

Liberal internationalists, such as Rawls, Stanley Hoffmann, and Michael Doyle, insist that to maximize collective legitimacy and reduce the risk of abuse by powerful nations, international interference ought to be authorized by multilateral institutions.[12] Of course, existing multilateral institutions are far from perfect: decision-making in the UN Security Council, the only body that can authorize cross-border interventions under international law, is notoriously characterized by a lack of transparency and domination by the great powers. As one prominent international relations theorist concludes, "By democratic standards, or even on principles of elementary fairness and proportionality, the twentieth-century model of multilateralism is highly deficient."[13] Nevertheless, deliberation and bargaining within existing multilateral bodies, in view of collectively endorsing, and thus legitimizing an intervention in the eyes of world public opinion, arguably reduces

the probability that any single great power will coerce smaller states for purely self-serving reasons. Multilateralism also increases the chances that broader prudential concerns about international order will be taken into account.

Philosopher Jürgen Habermas reminds us that a single national government planning to launch a humanitarian military intervention abroad "can never be sure whether it is really distinguishing its own national interests from the universalizable interests that all the other nations could share."[14] For this reason, any would-be humanitarian interveners should always test their unilateral anticipation of what is rationally acceptable to all sides by submitting their policy proposals to a process of formal multilateral authorization. I argue that, if anything, the normative threshold for paternalistic interference should be even higher during the postwar reconstruction phase. To minimize the risk of partisan interference and usurpation by powerful states, intrusive reconstruction efforts, once multilaterally authorized, should also be carried out as collective peace operations, whether under the United Nations, the African Union, or other recognized multilateral bodies. Military interventions aimed at *peace enforcement*, or ending civil wars, may be delegated to individual states in order to enhance military effectiveness; yet subsequent *postwar reconstruction* operations should be a fully collective enterprise, not only in terms of authorization but also of execution.

Proportionality of Interference: A Key Normative Requirement

For international paternalism to be justified it needs to comply with substantive requirements of proportionality, in addition to the aforementioned procedural requirements of multilateralism. The principle of proportionality is central to the classical just war tradition and to contemporary liberal theories of humanitarian intervention. At its most basic level, the principle suggests that any intrusive measures aimed at redressing a wrongdoing or an undesirable situation ought to be proportional to that wrongdoing or the seriousness of the situation.

Sometimes paternalistic interference by outsiders will be all but necessary in war-torn societies to secure short-term political stability and to (re-)build effective, inclusive self-government structures in the longer run. Transitional power-sharing arrangements among local factions may quickly unravel, unless they are backed up by a significant international presence on the ground. In Robert Keohane's words, "People who are in endemic conflict with one another, and mutually suspicious, are typically unable to solve the problem of order by themselves."[15] However, as there are various degrees of impairment in a society's

capacity for peaceful self-government and basic rights protection, so there should also be various gradations of international paternalism. This insight has two straightforward implications: First, higher degrees of paternalism will be justified over those societies that have been most adversely affected by violent conflict and where the state's institutional apparatus has all but collapsed. Second, since any obstacles to political order and self-rule in the aftermath of violent conflict are inherently political (that is, resulting from mutual fear among the local factions and the lack of adequate governance structures), they can be gradually overcome with the help of various confidence-building measures and external assistance aimed at institutional reconstruction. Permanent international trusteeship, even if limited to specific segments of a society's political or economic structure, is thus inadmissible. As a postwar society becomes progressively capable of managing its own affairs and protecting basic human rights, international interference should be accordingly reduced.

Modeling Degrees of Admissible Interference

This section elaborates on what the requirement of proportionate interference actually implies; and as noted above, I extrapolate my argument from John Rawls's international political theory. Rawls's essay *The Law of Peoples*, which extends the hypothesis of a liberal social contract to the international society of states, constitutes one of the most rigorous efforts to derive from the principles and assumptions of political liberalism several normative guidelines for the foreign policy of liberal states. Crucially, these guidelines also offer helpful insights concerning the admissible and desirable behavior of liberal states toward war-torn societies.

There is no doubt that Rawls's international theory, laid out in little more than one hundred pages, remains in many regards underspecified and incomplete. This has left it open to attack from various quarters. Cosmopolitan philosophers reject the theory's excessively "statist" orientation and its related focus on collective self-determination. Global justice, these critics argue, ought to focus not on peoples or states but instead on the rights and duties of individual human beings.[16] Others have pointed out, from a slightly different perspective, that Rawls's thought experiment excludes most nonliberal states from formulating the law of peoples; hence, Rawls's entire theoretical construct arguably is itself despotic.[17] These critiques raise some important questions, but they miss a fundamental point: Rawls's goal in *The Law of Peoples* is not to develop a theory of global distributive justice or a normative theory of world order, but merely to lay out "the ideals

and principles of the *foreign policy* of a reasonably just *liberal* people."[18] One of his main concerns is to clarify precisely when, and to what extent, liberal states that value the principle of collective self-determination can justifiably interfere in non-liberal societies. In view of this, his choice to focus first and foremost on collective political entities appears quite defensible, and so is his idea of a set of foreign-policy guidelines worked out primarily among liberal states. In sum, Rawls's law of peoples is undoubtedly paternalistic, since it justifies various degrees of interference in foreign countries for the sake of advancing the political freedom and basic rights protection enjoyed by local communities; but his theory can hardly be called despotic, as I will show in more detail below.

Rawls's entire theoretical framework reflects traditional liberal opposition to despotic, absolutist rule, as well as unease with related notions of paternal tutelage and coercion by the powerful; regardless of whether tutelage is institutionalized domestically (for example, over women or cultural and religious minorities) or internationally (over subject peoples), it deprives individual human beings of their capacity for self-expression and responsible agency. However, Rawls is not categorically opposed to paternalistic interference in foreign countries. In many regards, he seems to agree with the aforementioned argument that paternalistic interference abroad is justified when it can be reconciled with the principle of liberty; that is, when it benefits a population whose autonomy is seriously impaired due to existing social and political circumstances. Specifically, Rawls believes that such interference is prima facie justified under two quite narrowly defined sets of circumstances: first, when domestic conditions in foreign countries are genuinely "outlaw," that is, when basic human rights—possibly including the right to life—are systematically violated on a large scale; and, second, when a society is heavily "burdened" by unfavorable conditions, implying that it lacks the necessary institutions, economic resources, and political culture to be effectively self-governing. According to Rawls, outlaw conditions and burdened political status both invite external interference, but they do so for dissimilar reasons, which in turn justify different degrees of interference. To better illustrate his normative claim, Rawls outlines the main distinguishing features of ideal-typical "outlaw states" and "burdened societies."

Coercive Interference in Outlaw States

Rawls suggests that for states to truly deserve their international sovereignty and the related right to noninterference in their domestic affairs, they must comply

with certain basic standards of decency. Specifically, they must refrain from international aggression; allow for meaningful popular inputs into the domestic decision-making process (by encouraging popular consultation, even if not full democracy); and protect basic human rights, such as liberty of conscience, freedom from slavery and arbitrary executions, and "security of ethnic groups from mass murder and genocide."[19] So-called "outlaw states" systematically fail to meet these basic moral requirements.

When referring to outlaws, Rawls seems primarily to have in mind despotic states that are both domestically oppressive and internationally aggressive. However, he insists that large-scale human rights violations can be sufficient in and of themselves to characterize a state as outlaw and, accordingly, justify external interference: "Certainly there is a prima facie case for intervention of some kind . . . with outlaw states simply because they violate human rights, even though they are not aggressive and dangerous toward other states, and *indeed may be quite weak*."[20] Rawls points out that from a liberal standpoint basic human rights clearly "specify limits to a regime's internal autonomy."[21] Hence, outlaw states that violate basic rights do not deserve to be internationally recognized and respected as sovereign equals. Whenever a state degenerates into outlaw status, the principle of international noninterference is suspended and outsiders may act to redress the situation on the ground.

According to Rawls, the long-run goal of a liberal foreign policy ought to be "to bring all societies eventually to honor the Law of Peoples," so that human rights would be "secured everywhere."[22] Thus, liberal nations can, and probably should, always interfere in societies characterized by outlaw domestic circumstances. In most cases liberal nations should seek to peacefully promote political reforms by offering various economic incentives; they may also "expose to public view" the unjust and cruel practices of local leaders that result in serious "violations of human rights."[23] If economic incentives and public naming and shaming will not achieve any appreciable results, liberal nations operating through various multilateral institutions should adopt a more coercive strategy of economic sanctions and travel bans carefully targeted toward local political elites. "The leaders and officials, assisted by other elites who control and staff the state apparatus . . . are responsible," and for that they ought to be punished.[24]

Outright *military intervention* is justified only under extraordinary circumstances, notably in the face of actual or anticipated mass killings of innocent human beings. Only "if the offenses against human rights are egregious and the society does not respond to the imposition of sanctions, such intervention in the

defense of human rights would be acceptable and would be called for."[25] The Rawlsian argument on outlaw states anticipates several elements of the responsibility to protect doctrine and its underlying notion of "sovereignty as responsibility," as endorsed in principle by the UN General Assembly in 2005. According to this concept, every state bears the primary responsibility for protecting the security and basic rights of all the people living on its territory. However, in the face of large-scale loss of life due to brutal governmental oppression and/or civil war, the principle of noninterference is suspended and it becomes the responsibility of the international community to step in, using military force if necessary.[26]

Rawls's elucidation of the conditions under which military intervention becomes morally justified allows us to derive some important insights concerning the ethics of postwar reconstruction. For Rawls, coercive interference based on the threat or actual deployment of military force can be justified only to guarantee the *physical security of individuals* when their lives are systematically threatened on a large scale. It follows that full-scale international trusteeship over war-torn societies, backed by military power and involving partial or wholesale external control over the domestic political process, can be justified only so long as security remains highly volatile and human lives are systematically at risk. Such life-threatening conditions frequently exist in the immediate aftermath of civil wars, particularly when a ceasefire or peace agreement signed by local factions is the result of significant international pressure or "induced consent."

During the early postwar transition phase direct accountability to the local population may be unwise and indeed impossible to achieve, due to the need to protect political minorities and the lack of appropriate institutions capable of aggregating domestic political preferences. However, even in the absence of direct democratic accountability, international authorities should consult with representative local elites and the broader population to the greatest possible extent. Rawls himself suggests that nondemocratic political authorities are acceptable from a principled liberal viewpoint only if they consult with relevant local bodies and carefully "weigh the views and claims of each of the bodies consulted."[27] Local consultation appears desirable from a more consequentialist viewpoint as well. Recent empirical scholarship on postwar reconstruction has shown that consultation and institutionalized deliberation with local stakeholders (for example, through regular meetings with village elders, women's associations, and civil society groups) can help build local capacities for self-government and, moreover, improves the likelihood that policies initiated by external peacebuilders

will be accepted as legitimate by the domestic population.[28] But such full-scale international trusteeship based on consultation with local stakeholders needs to be a strictly temporary measure.

Burdened Societies, or the Empirical Prerequisites of Sovereign Statehood

Beyond outlaw states, Rawls describes a second type of political entity that invites external interference and transformation: so-called "burdened societies." These societies are not necessarily oppressive; yet they are temporarily unable to interact with other states as sovereign equals because they lack the necessary domestic institutions, economic resources, and/or political culture to provide basic public goods to their own population and to freely determine their own future. In other words, such societies lack the empirical capacity to be fully self-governing; they have no meaningful *domestic sovereignty* and, as a consequence, their international sovereignty is also circumscribed.[29] Rawls's argument on burdened societies echoes the norms of an earlier sovereignty regime, which remained in force until the early twentieth century: under that regime, a government's capacity to effectively control its own territory and population (domestic sovereignty) was an essential condition for the recognition and respect by others of its international, or Westphalian, sovereignty.[30] Thus, Rawls justifies outside interference in burdened societies; yet he believes that the ideal-typical burdened society is clearly morally superior to blatantly outlaw states. The former merely lacks the empirical prerequisites to be effectively self-governing, while the latter intentionally and systematically threaten basic human rights, frequently including the right to life of their own citizens.[31] Therefore, unless burdened societies are also characterized by state oppression and/or civil strife, suggesting simultaneously outlaw status, outsiders may not directly rule them as international trustees and impose policies upon them.

Arguably, failed states during the immediate postwar transition phase frequently display characteristics of *both* outlaw states *and* burdened societies. First, the security situation on the ground typically remains highly volatile, with human lives systematically threatened, suggesting "outlaw" status. Second, the institutional, cultural, and economic requirements for effective self-governance and the provision of vital public goods are largely absent, suggesting acutely "burdened" conditions. Rawls would probably not disagree, as he points out that his remarks about different state categories are primarily "conceptual." What matters most to him is "whether we can imagine" such ideal-typical societies, and he seems well aware that in the real world his categories are unlikely to exist in their pure form.[32]

The Rawlsian normative framework suggests that as soon as the security situation improves in the aftermath of civil war and human lives are no longer systematically threatened, direct international rule and the external imposition of policies can no longer be justified. There are several objective indicators that the security situation has improved beyond the point where full-scale trusteeship is acceptable, such as the setting up of basic power-sharing institutions, the disarmament and demobilization of former combatants, and the establishment of (at least) a rudimentary national army and police corps. In most cases, assuming that sufficient international resources are forthcoming, it should be possible to achieve these goals relatively quickly, within a timeframe of one or two years. However, societies recovering from large-scale civil violence will typically retain their *burdened* status for several more years due to various social and political impediments to genuine self-government. Thus, a lower degree of paternalistic interference continues to be justified until such societies develop the institutions and political culture sufficient to become fully self-governing and "manage their own affairs reasonably and rationally."[33] Of course, Rawls's category of burdened societies more generally encompasses weak and failed states that lack the conditions for genuine popular self-determination; war-torn societies are simply a particularly disadvantaged subset of this larger group.[34]

Rawls claims that liberal states have a "*duty* to assist burdened societies" until they become able to "determine the path of their own future for themselves."[35] For the purposes of this article, however, I am agnostic about whether a positive duty to assist burdened societies actually exists. With specific regard to postwar reconstruction, I assume that when powerful (liberal) nations devote significant resources to this task, they usually have mixed motives. Moral beliefs can sustain such costly commitments over time only in conjunction with strategic and material interests (such as eliminating potential breeding grounds for terrorism, protecting distant allies, increasing one's own regional influence, and the like). The main purpose of this article is to discuss the boundaries of admissible international paternalism; I am thus primarily concerned with the *negative duty* not to usurp the fundamental right of popular self-determination. This being said, those who choose to assist war-torn societies and do so through paternalistic interference, by deliberately constraining the policy options of local political actors, inherently assume certain moral responsibilities for the provision of postwar governance and security.

Rawls himself is quite noncommittal concerning the means of channeling international assistance to burdened societies. He admits that there is "certainly no easy recipe" to help a burdened society develop the political culture and institutional structure that will enable meaningful popular self-determination and effective protection of basic rights. Perhaps most significantly, he points out that, in the absence of strong domestic institutions with attendant checks and balances, "merely dispensing funds will not suffice" and may only enrich corrupt local elites.[36] But Rawls provides no further specific suggestions as to how the international community of liberal nations could best assist burdened societies that lack effective domestic governance structures. He dismisses the problem as essentially technical: "These are not matters to which political philosophy has much to add."[37] Yet Rawls's conclusion here is probably too quick. If it is to be effective, international assistance toward heavily burdened societies—particularly those recovering from civil war—will inevitably have to entail some degree of paternalism. Therefore, the specific design of international assistance policies toward such societies is not just a technical matter. It raises important ethical questions that need to be explicitly addressed.

From International Trusteeship to Shared Responsibility

The central question at this point becomes how to effectively assist heavily burdened postwar societies without directly controlling their domestic political process once basic security has been reestablished. Recall that such burdened societies still need substantial international guidance and assistance, possibly for several years; but human lives are no longer threatened by large-scale political violence, and therefore all-out international trusteeship and coercion are no longer acceptable. Freely extrapolating from the Rawlsian theoretical framework, I suggest that the best means of effectively assisting such postwar societies consists in *sharing responsibility* for governance and reconstruction among domestic and international authorities. In the context of this article, shared responsibility implies that international officials (representing the main donor countries and relevant multilateral organizations) are deployed inside domestic agencies, ministerial bodies, and judicial institutions of the postwar society, not merely as technical advisers but with explicit co-decisional authority.

Political scientist Stephen Krasner has recently developed a related argument concerning "the engagement of external actors in some of the domestic authority structures" of weak and failed states. Krasner refers to the resulting arrangements as instances of "shared sovereignty."[38] His terminology, however, is misleading: a state's *external sovereignty* can undoubtedly be compromised to varying degrees by an intrusive international presence on its territory, but it can hardly be shared in any meaningful sense. As for the *domestic sovereignty* of war-torn societies (that is, the capacity to control their territory and population and effectively manage their own affairs), it cannot, by definition, be shared with external actors, given that it is an important goal of postwar reconstruction to actually help rebuild domestic sovereignty in the first place. Furthermore, as a pessimistic political realist, Krasner doubts that war-torn societies such as Bosnia and Afghanistan can ever again become fully self-governing. This leads him to conclude that the deployment of international officials within the domestic authority structure of such societies should be "permanent not transitional."[39] Yet Krasner is too quick in sacrificing self-determination on the altar of political stability: there is ample evidence, most notably in the western Balkans, of heavily burdened war-torn societies recovering their capacity for self-governance within less than a decade.[40]

The notion of transitional shared responsibility put forward in this article is conceptually less ambivalent and more normatively appealing than Krasner's idea of shared sovereignty. Once basic security has been reestablished in the aftermath of civil war, and as domestic capacities for peaceful self-governance gradually (re-)emerge, domestic and international authorities should periodically renegotiate the "balance of responsibility"; that is, the degree of international paternalism should be progressively reduced according to a logic of sliding interference. There are numerous issue areas where domestic and international authorities could fruitfully share responsibility for postwar governance and reconstruction. First and foremost, there is great potential for shared responsibility on various executive and administrative bodies, such as finance and defense ministries, central banks, education and social policy committees, and natural resource management agencies.

Mixed Executive and Administrative Bodies

The first thinker to explicitly write about shared responsibility in the context of modern state governance was John Stuart Mill in his *Considerations on Representative Government* (1861). Mill believed that governance responsibility is

shared between various (in his case domestic) officials whenever "the concurrence of more than one functionary is required to the same act." The only requirement for shared responsibility in his view was that at least two officials co-sign a policy proposal, for should it subsequently emerge that "a wrong has been done, none of them can say he did not do it."[41] Mill's understanding of shared governance responsibility appears quite readily applicable to mixed decision-making organs in postwar societies that are staffed with both domestic and international officials.

Several experiments with mixed domestic-international governance in postwar societies have already been carried out in recent years. One of the first experiences in this regard goes back to the United Nations Transitional Authority in Cambodia (UNTAC). Between 1992 and 1993 almost two hundred international civilian officials were deployed inside Cambodia's ministries of defense, national security, foreign affairs, consular affairs, and finance. Yet the role of these international agents was primarily advisory, and thus they lacked any explicit decision-making authority on most important issues.[42] In more recent instances of mixed governance, the authority of international officials has increased substantially. For instance, when Australia set up a new Regional Assistance Mission to the Solomon Islands in 2003, international officials with significant decision-making authority were deployed within several domestic agencies and ministries, most importantly the national treasury and the ministry of finance.[43] Probably the closest approximation to date of Mill's conception of shared responsibility applied to postwar reconstruction can be found in the ongoing Governance and Economic Management Assistance Program that was launched in postwar Liberia in 2005. Several internationally recruited experts with explicit co-signature authority have been deployed in key Liberian ministries, agencies, and state-owned enterprises. An international expert also serves as chief administrator of the Liberian central bank.[44] Such mixed governance arrangements are likely to become more widespread in the future: in late 2007 a new program, the Partnership for Democratic Governance (PDG), was set up at the OECD in Paris to facilitate the deployment of international experts within the domestic authority structures of ill-governed states.[45]

These experiments with mixed governance in postwar societies have so far produced some encouraging results, particularly concerning the adoption of important economic and political reforms. At the same time, critics have pointed out that corruption has remained widespread under such arrangements and local capacity-building has advanced rather slowly.[46] Perhaps the Millian understanding of shared responsibility through co-signatory authority is altogether too low

a normative threshold. After all, equipping international officials with explicit co-signature authority gives them a de facto veto over important domestic policy decisions. Given the enormous power disparities between domestic and international actors, such arrangements may lead to a situation not meaningfully different from all-out trusteeship—or, worse, to political deadlock following repeated mutual vetoes.

A more appealing way of sharing responsibility for postwar governance and reconstruction might consist in letting domestic officials (representing, for instance, the country's main ethnic or religious groups) and international civil servants (representing multilateral organizations such as the United Nations and the World Bank, as well as major donor governments) work together in *collegial decision-making bodies*. Each representative should be given one vote on all major issues, with decisions adopted by absolute majority. Initially, there should be an equal number of domestic and international representatives on such bodies; over time the number of international officials ought to be gradually reduced, in line with the postwar society's increasing capacity to effectively manage its own affairs.

Collegial decision-making according to this logic would still imply a degree of paternalism. However, outsiders could never directly impose a policy decision without first convincing at least some domestic officials to support their proposal. Over time, with the number of international representatives on such collegial bodies being progressively reduced, domestic officials would increasingly call the shots. The overall result would be frequent deliberation and negotiation between domestic and international representatives to achieve sufficiently large majorities in support of specific policies. Such deliberation, if public, would greatly increase the local accountability of external actors, while also fostering precious capacity building at the local political level.

Hybrid Courts

Another set of institutions that hold great potential for the development of shared responsibility arrangements are postwar judicial bodies, especially war crimes tribunals, transitional human rights chambers, and constitutional courts. The administration of justice in war-torn societies requires significant economic resources, as well as professional expertise and impartiality. Given that these resources are frequently lacking domestically, they can best be provided by qualified international judges, supported by relevant multilateral agencies and

foreign donors. Yet purely international courts, such as the International Criminal Tribunal for the Former Yugoslavia, can appear as a quasi-imperial imposition to local communities. Furthermore, they have little positive impact on local capacity building, and their overall effect on the pacification of war-torn societies remains controversial.[47] An appealing compromise is offered by hybrid courts, which are staffed by both domestic and international judges. For instance, quite successful hybrid war crimes tribunals have been established in the context of broader international peace operations in East Timor, Kosovo, Sierra Leone, and Cambodia. In 2006 the UN Security Council further mandated the establishment of a special hybrid tribunal for Lebanon to try those suspected of assassinating former prime minister Rafik Hariri.[48]

Probably the most interesting real-world example of collegial decision-making according to the principle of shared responsibility can be found in Bosnia's postwar constitutional court. The court, established as a product of the Dayton peace agreement signed in 1995, is composed of nine judges: six are selected by Bosnia's domestic legislatures (two judges for each of the country's main ethnic communities—Bosnian Muslims, Croats, and Serbs), while the remaining three are international judges appointed by the European Court of Human Rights. Numerically in the minority, the international judges have never been able to impose their views. Indeed, experience suggests that the international judges have usually behaved as committed *advocates* of their respective positions, trying to persuade other members of the court as well as the Bosnian public at large. This has led to the progressive emergence of a healthy culture of judicial deliberation and compromise. Unlike several of Bosnia's more traditional postwar institutions, the constitutional court has never suffered from ethnic deadlock and has actually contributed to gradually overcoming the deep ethnic fragmentation that characterized most of the country's institutional structure after the war.[49]

The aforementioned experiments in the judicial domain have been far from unqualified successes overall. Most existing hybrid courts were conceived in an ad hoc manner. They have often been marred by funding problems and half-hearted cooperation on the part of local authorities and, with the notable exception of the Bosnian court, they have typically been staffed by a majority of international judges, raising doubts about whether responsibility and authority are actually shared in any meaningful way. Nevertheless, under the right conditions hybrid courts can administer justice effectively. At least equally important, such courts can foster substantial deliberation between domestic and international judges,

thereby diffusing international expertise and legal norms to the domestic level and promoting local capacity building over time.

A Few Words on Exit

The underlying theme of this article has been that international paternalism over war-torn societies, if it is to be justified, always needs to be temporary and strictly proportional to domestic impediments to self-rule. As I have argued above, international actors, working through the UN or regional multilateral organizations, may set up trusteeship-like arrangements and impose short-term policies in the immediate aftermath of civil war to enforce political stability and kick-start the reconstruction of inclusive domestic governance structures. The subsequent transition from full-scale trusteeship to shared responsibility should ideally result from a joint political assessment by domestic and international authorities. However, the very nature of international trusteeship implies that external actors, after due consultation with local stakeholders, have the ultimate say over the termination of such arrangements.

Once a postwar society has moved beyond full-scale international trusteeship and to the stage of shared responsibility, domestic authorities should always be free to renegotiate any existing mixed governance arrangements and even seek their early termination as a last resort. The only condition ought to be that a sizeable majority of the local population—across all principal ethnic and religious groups—supports the decision. In view of protecting the legitimate interests of religious and cultural minorities in postwar societies, demanding supermajority requirements should ideally be incorporated *ex ante* into shared responsibility arrangements to guide their subsequent modification and/or termination. There are rough objective indicators that a postwar society has (re-)acquired the full capacity to determine its own affairs, such as advanced economic rehabilitation and institutional reconstruction, with evidence of successful domestic power sharing among former enemies over a sustained period of time. The ultimate assessment, however, will be political more than technical. Hence, the decision to terminate any shared governance arrangements should best be taken by the domestic population itself, after careful deliberation, in line with the criteria outlined above. Under no circumstances should international authorities refuse to renegotiate a shared responsibility arrangement, if that reflects the desire of a vast majority of the local population, and if domestic political actors are willing to renounce the international financial and technical assistance linked to the arrangement.

Conclusion

This article has focused on the ethical dilemmas facing international reconstruction efforts in war-torn countries characterized by deep societal divisions and a partial or wholesale collapse of domestic governance structures. These are the hardest cases, which typically require a high degree of external interference. I have extrapolated my principal normative argument, concerning the admissible degree of international paternalism at different stages of the reconstruction process, from Rawls's *The Law of Peoples*. As Stephen Macedo points out, in contrast to present-day cosmopolitan philosophers who value above all the rights of individual human beings, Rawls explicitly acknowledges the "*moral significance of collective self-governance*," or popular self-determination.[50] Moreover, in line with classical liberal internationalism, and following Kant in particular, Rawls understands that each people ideally ought to find their own path to self-governance and develop their own representative institutions over time. As a result, Rawls is rather more prudent than contemporary cosmopolitan thinkers when it comes to justifying coercive interference in foreign countries. According to leading cosmopolitan philosophers, such as Brian Barry, coherent cosmopolitanism entails that in the face of foreign countries with autocratic and corrupt domestic governance structures "international [military] intervention to displace the government and, if necessary, place the country under international trusteeship" is always justified in principle.[51]

For Rawls, liberal nations certainly ought to put pressure on oppressive regimes, insisting that they allow political dissent and implement related political reforms; furthermore, liberal nations should assist foreign peoples in the development of their own representative institutions. However, in Rawls's view, mere state oppression and/or systematic political corruption do not automatically trigger a prima facie right of military intervention and coercive regime change. Humanitarian military intervention can be justified only under exceptional circumstances and as a last resort, when innocent lives are threatened en masse. Moreover, such interventions need to be multilaterally authorized and overseen to reduce the risk of usurpation by powerful states. Applied to postwar reconstruction, this implies that full-scale trusteeship backed by the deployment of international military power can be justified only so long as security remains highly volatile and human lives are systematically threatened. Thereafter, lower degrees of paternalistic interference (institutionalized in the form of shared responsibility arrangements)

continue to be justified until a postwar society becomes fully capable of determining its own future.

To a first approximation, this leaves us with a straightforward two-step model of justifiable international interference: full-scale trusteeship in the face of "outlaw" conditions vs. shared responsibility over merely "burdened" societies. But the two-step model is somewhat too crude. In fact, the second stage, involving shared responsibility, ought to be seen as itself encompassing several different phases, so that the degree of external involvement will be progressively reduced as local capacities for peaceful self-governance gradually (re-)emerge. These ethical guidelines, while they remain quite general, should nevertheless provide a useful normative compass for international peacebuilding practitioners and theorists alike. More specific answers to the normative dilemmas resulting from intrusive international reconstruction efforts in particular postwar societies cannot be devised in the abstract, but instead require a careful case-by-case analysis that takes local social and political circumstances into account.

NOTES

[1] See, e.g., Roland Paris, *At War's End: Building Peace after Civil Conflict* (Cambridge: Cambridge University Press, 2004); Richard Caplan, *International Governance of War-torn Territories: Rule and Reconstruction* (New York: Oxford University Press, 2005); Michael W. Doyle and Nicholas Sambanis, *Making War and Building Peace: United Nations Peace Operations* (Princeton, N.J.: Princeton University Press, 2006).

[2] See, e.g., Brian Orend, "Justice after War," *Ethics & International Affairs* 16, no. 1 (2002), pp. 43–57; Gary Bass, "Jus Post Bellum," *Philosophy & Public Affairs* 32, no. 3 (2004), pp. 384–412; Noah Feldman, *What We Owe Iraq: War and the Ethics of Nation-Building* (Princeton, N.J.: Princeton University Press, 2004); Louis V. Iasiello, "The Moral Responsibilities of Victors in War," *Naval War College Review* 57 (Summer/Fall 2004), pp. 33–52; Michael Walzer, "Just and Unjust Occupations," *Dissent* 51 (Winter 2004), pp. 61–63; Jean Bethke Elshtain, "The Ethics of Fleeing: What America Still Owes Iraq," *World Affairs* (Spring 2008), pp. 91–98; and Alex J. Bellamy, "The Responsibilities of Victory: *Jus Post Bellum* and the Just War," *Review of International Studies* 34, no. 4 (2008), pp. 601–25.

[3] See esp. Orend, "Justice after War," p. 45; and Robert Williams and Dan Caldwell, "*Jus Post Bellum*: Just War Theory and the Principles of Just Peace," *International Studies Perspectives* 7, no. 4 (2006), p. 316.

[4] Niall Ferguson, *Colossus: The Price of America's Empire* (New York: Penguin, 2004), pp. 171–73, emphasis in original; see also Gerald B. Helman and Steven R. Ratner, "Saving Failed States," *Foreign Policy* 89 (Winter 1992–93), pp. 3–20; Martin Indyk, "A Trusteeship for Palestine," *Foreign Affairs* 82 (May/June 2003), pp. 51–66; James D. Fearon and David Laitin, "Neotrusteeship and the Problem of Weak States," *International Security* 28, no. 4 (2004), pp. 5–43.

[5] See esp. Immanuel Kant, "The Metaphysics of Morals," in Hans Reiss, ed., *Kant: Political Writings* (Cambridge: Cambridge University Press, 1991), pp. 132–34.

[6] John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999), p. 85.

[7] John Locke, *Second Treatise of Government* (Indianapolis, Ind.: Hackett Publishing, 1980 [1690]), ch. 6; on Locke's argument in support of colonialism, see Richard Tuck, *The Rights of War and Peace* (New York: Oxford University Press, 1999), pp. 166–81; Kant, "On the Common Saying: 'This May Be True in Theory, but it Does not Apply in Practice,'" in Reiss, ed., *Kant: Political Writings*, p. 74, emphasis in original.

[8] John Stuart Mill, "Considerations on Representative Government," in John Gray, ed., *On Liberty and Other Essays* (New York: Oxford University Press, 1991), p. 264. On de Tocqueville, see Jennifer Pitts, ed., *Alexis de Tocqueville: Writings on Empire and Slavery* (Baltimore: Johns Hopkins University Press, 2003). On Mazzini, see Stefano Recchia and Nadia Urbinati, eds., *A Cosmopolitanism of Nations: Giuseppe Mazzini's Writings on Democracy, Nation Building, and International Relations* (Princeton, N.J.: Princeton University Press, 2009).

[9] Martha Finnemore, "Constructing Norms of Humanitarian Intervention," in Peter J. Katzenstein, ed., *The Culture of National Security* (New York: Columbia University Press, 1996), p. 172, emphasis in original. For an excellent discussion see also Stephen Holmes, "Making Sense of Liberal Imperialism," in Nadia Urbinati and Alex Zakaras, eds., *J. S. Mill's Political Thought* (Cambridge: Cambridge University Press, 2007), pp. 298–346.

[10] For a thorough discussion based on empirical research see Roland Paris, "International Peacebuilding and the 'Mission Civilisatrice,'" *Review of International Studies* 28, no. 4 (2002), pp. 637–56.

[11] Dennis F. Thompson, "Paternalistic Power," in *Political Ethics and Public Office* (Cambridge, Mass.: Harvard University Press, 1987), pp. 148–49.

[12] Rawls, *Law of Peoples*, p. 93; see also Stanley Hoffmann, "The Politics and Ethics of Military Intervention," *Survival* 37, no. 4 (1995), pp. 29–51; and Michael W. Doyle, "The Ethics of Multilateral Intervention," *Theoria* 53, no. 109 (2006), pp. 28–48.

[13] Robert O. Keohane, "The Contingent Legitimacy of Multilateralism," in Edward Newman, Ramesh Thakur, and John Tirman, eds., *Multilateralism Under Challenge* (Tokyo: United Nations University Press, 2006), p. 61.

[14] Jürgen Habermas, *The Divided West* (London: Polity, 2006), p. 184.

[15] Robert O. Keohane, "Political Authority after Intervention: Gradations in Sovereignty," in J. L. Holzgrefe and Robert O. Keohane, eds., *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge: Cambridge University Press, 2003), pp. 280–81.

[16] See, e.g., Charles Beitz, "Rawls's Law of Peoples," *Ethics* 110, no. 4 (2000), pp. 669–96; Andrew Kuper, "Rawlsian Global Justice: Beyond the Law of Peoples to a Cosmopolitan Law of Persons," *Political Theory* 28, no. 5 (2000), pp. 640–74; Simon Caney, *Justice Beyond Borders: A Global Political Theory* (New York: Oxford University Press, 2005), ch. 4; and Thomas Pogge, "Do Rawls's Two Theories of Justice Fit Together?" in Rex Martin and David Reidy, eds., *Rawls's Law of Peoples: A Realistic Utopia?* (London: Blackwell, 2006), ch. 12.

[17] See, e.g., Gerry Simpson, "Two Liberalisms," *European Journal of International Law* 12, no. 3 (2001), pp. 537–71; and Beate Jahn, "Kant, Mill, and Illiberal Legacies in International Affairs," *International Organization* 59, no. 1 (2005), pp. 177–207.

[18] Rawls, *Law of Peoples*, p. 10; emphasis in original.

[19] Ibid., p. 79; see also p. 65.

[20] Ibid., p. 93, footnote 6, emphasis added. For a more detailed discussion see Henry Shue, "Rawls and the Outlaws," *Politics, Philosophy and Economics* 1, no. 3 (2002), pp. 307–23.

[21] Rawls, *Law of Peoples*, p. 79.

[22] Ibid., p. 93.

[23] Ibid.

[24] Ibid., p. 95.

[25] Ibid., p. 94, footnote 6; see also pp. 93–96 more generally.

[26] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001), p. 17; see also United Nations General Assembly, *World Summit Outcome*, A/RES/60/1, October 24, 2005, § 138 and 139.

[27] Rawls, *Law of Peoples*, p. 77.

[28] See, e.g., Michael Barnett, "Building a Republican Peace," *International Security* 30, no. 4 (2006), pp. 97–101; and Jarat Chopra and Tanja Hohe, "Participatory Intervention," *Global Governance* 10, no. 3 (2004), pp. 298–305.

[29] Rawls, *Law of Peoples*, p. 106.

[30] See Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge: Cambridge University Press, 1990), ch. 3.

[31] See also Nancy Kokaz, "Poverty and Global Justice," *Ethics & International Affairs* 21, no. 3 (2007), p. 323.

[32] Rawls, *Law of Peoples*, footnote 16, p. 75.

[33] Ibid., p. 111.

[34] For a similar argument see Keohane, "Political Authority after Intervention," p. 279.

[35] Rawls, *Law of Peoples*, p. 106 and p. 118, emphasis in original.

[36] Ibid., p. 108.

[37] Ibid., p. 93.

[38] Stephen D. Krasner, "Sharing Sovereignty: New Institutions for Collapsed and Failing States," *International Security* 29, no. 2 (2004), p. 108.

[39] Ibid., p. 115.

[40] See, e.g., Stefano Recchia, "Beyond International Trusteeship: EU Peacebuilding in Bosnia and Herzegovina," *Occasional Paper No. 66* (Paris: EU Institute for Security Studies, 2007); available at www.iss.europa.eu/uploads/media/occ66.pdf.

[41] Mill, *On Liberty and Other Essays*, p. 394.

[42] See Michael W. Doyle, *UN Peacekeeping in Cambodia: UNTAC's Civil Mandate* (Boulder, Colo.: Lynne Rienner, 1995), p. 43.

[43] Julien Barbera, "Antipodean Statebuilding: The Regional Assistance Mission to Solomon Islands and Australian Intervention in the South Pacific," *Journal of Intervention and Statebuilding* 2, no. 2 (2008), p. 134; see also Richard Ponzio, "The Solomon Islands: The UN and Intervention by Coalitions of the Willing," *International Peacekeeping* 12, no. 2 (2005), p. 179.

[44] Louise Andersen, "Outsiders Inside the State: Post-Conflict Liberia Between Trusteeship and Partnership," *Journal of Intervention and Statebuilding*, forthcoming.

[45] See www.oecd.org/pdg.

[46] William Reno, "Anti-Corruption Efforts in Liberia: Are They Aimed at the Right Targets?" *International Peacekeeping* 15, no. 3 (2008), pp. 387–404.

[47] See Jack Synder and Leslie Vinjamuri, "Trials and Errors: Principle and Pragmatism in Strategies of International Justice," *International Security* 28, no. 3 (2003), pp. 5–44.

[48] For a good overview on the role of hybrid courts in postwar societies, see Laura A. Dickinson, "The Promise of Hybrid Courts," *American Journal of International Law* 97, no. 2 (2003), pp. 295–310. For more specific discussions, see also Suzanne Katzenstein, "Hybrid Tribunals: Searching for Justice in East Timor," *Harvard Human Rights Journal* 16 (2003), pp. 245–78; and Gianluca Serra, "Special Tribunal for Lebanon," *International Criminal Justice Review* 18, no. 3 (2008), pp. 344–55.

[49] Joseph Marko, "Five Years of Constitutional Jurisprudence in Bosnia and Herzegovina," *European Diversity and Autonomy Paper N*o. 7 (2004), p. 33; available at www.eurac.edu/edap. See also Roberto Belloni, *State Building and International Intervention in Bosnia* (New York: Routledge, 2007), pp. 58–72.

[50] Stephen Macedo, "What Self-governing Peoples Owe to One Another: Universalism, Diversity, and the Law of Peoples," *Fordham Law Review* 72, no. 5 (2004), p. 1723, emphasis in original. See also Leif Wenar, "Why Rawls is Not a Cosmopolitan Egalitarian," in Martin and Reidy, eds., *Rawls's Law of Peoples*.

[51] Brian Barry, "International Society from a Cosmopolitan Perspective," in David R. Mapel and Terry Nardin, eds., *International Society: Diverse Ethical Perspectives* (Princeton, N.J.: Princeton University Press, 1998), p. 160. For similar points of view, see David Luban, "Just War and Human Rights," *Philosophy & Public Affairs* 9, no. 2 (1980), pp. 160–81; and Fernando Téson, "The Liberal Case for Humanitarian Intervention," in Holzgrefe and Keohane, eds., *Humanitarian Intervention,* pp. 93–129.