

# Michael Walzer on Resorting to Force<sup>1</sup>

BRIAN OREND *University of Waterloo*

American political theorist Michael Walzer is a prominent provocative thinker on the morality of warfare. His landmark study, *Just and Unjust Wars*, remains a modern classic.<sup>2</sup> But we might ask: given that this oft-cited work first appeared in 1977, what, if any, relevance does it have for us today? Consider, for instance, Walzer's controversial account of *jus ad bellum*, a term traditionally referring to the justice of resorting to war. Walzer frames this account around heavy assumptions about aggression and defence between sovereign states. As a result, his theory might seem severely dated, for many of the world's pressing conflicts have to do not so much with wars between states as with civil wars within states, or with groups of states forcibly intervening in other states on (putatively) humanitarian grounds. Relevant examples include the civil wars in Somalia (1993), Bosnia (1992-1995), Rwanda (1994-1995), Chechnya (1994-1996; 1999-2000) and Sierra Leone (1999-2000), as well as the armed intervention by NATO in the Kosovo province of Serbia in 1999. Kalvi Holsti has determined, in this regard, that in a recent representative period from 1989 to 1996 there were 96 armed conflicts, only five of which were classic cases of war between sovereign states.<sup>3</sup> The purpose of this article is to show that, in spite of these potent challenges, Walzer's account of the justice of resorting to force in international affairs—of *jus ad bellum*—remains not only relevant but important for our times.

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1 I thank the anonymous reviewers of the JOURNAL for their comments.

2 Michael Walzer, *Just and Unjust Wars* (2nd ed.; New York: Basic Books, 1991 [1977]).

3 K. Holsti, *The State, War and The State of War* (Cambridge: Cambridge University Press, 1996).

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Brian Orend, Department of Philosophy, University of Waterloo, Waterloo, Ontario N2L 3G1; [bdorend@watarts.uwaterloo.ca](mailto:bdorend@watarts.uwaterloo.ca)

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## Interpretation and the War Convention

Walzer says the rules of *jus ad bellum* are addressed, first and foremost, to heads of state. Since political leaders order armed forces into action in the first place, they are to be held accountable to *jus ad bellum* principles. If they fail in that responsibility, then they commit war crimes. In the language of the Nuremberg prosecutors, aggressive leaders who launch unjust wars commit “crimes against peace.” What constitutes a just or unjust resort to armed force is disclosed to us by something Walzer calls “the war convention.” Walzer defines this war convention as “the set of articulated norms, customs, professional codes, legal precepts, religious and philosophical principles, and reciprocal arrangements that shape our judgment” of the ethics of war and peace. The shared war convention provides the raw material from which we construct the best interpretation of our core commitments in wartime. Walzer believes that this interpretation establishes a set of firm rules to guide the conduct of persons and states. He refers to this set as the rules of just war theory.<sup>4</sup>

## The Just War Tradition

The most influential reading of the war convention probably belongs to the just war tradition. This tradition refers to a group of like-minded thinkers who employed similar concepts and values to construct a moral code regarding wartime behaviour. The tradition has enjoyed a long and distinguished pedigree, including such notables as Augustine, Aquinas, Grotius, Suarez, Vattel and Vitoria. Hugo Grotius probably deserves credit for being the most comprehensive and formidable member of the tradition. Many of the rules developed by the just war tradition have since been codified into contemporary international laws governing armed conflict. The tradition has thus been doubly influential, dominating both moral and legal discourse surrounding armed conflict.<sup>5</sup>

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4 Walzer, *Just and Unjust Wars*, 44, 288-301; M. Walzer, *Interpretation and Social Criticism* (Cambridge: Harvard University Press, 1987); and M. Walzer, *Thick and Thin: Moral Argument at Home and Abroad* (Notre Dame: Notre Dame University Press, 1994).

5 On the law, see W. Reisman and C. Antoniou, eds., *The Laws of War: A Comprehensive Collection of Primary Documents Governing Armed Conflict* (New York: Vintage, 1994), 317-405. For more on traditional just war theory, see J. B. Elshtain, ed., *Just War Theory* (Oxford: Blackwell, 1992); R. Wasserstrom, ed., *War and Morality* (Belmont: Wadsworth, 1970); W. V. O'Brien, *The Conduct of Just and Limited War* (New York: Praeger, 1981); R. Phillips, *Can Modern War Be Just?* (New Haven: Yale University Press, 1984); and P. Ramsey, *The Just War: Force and Political Responsibility* (New York: Scribner, 1968). The best historical studies of this corpus are at J. T. Johnson, *Ideology, Reason and the Limitation of War: Religious and Secular Concepts, 1200-1740* (Princeton: Princeton University Press, 1981) and J. T. Johnson, *Just War Tradition and the Restraint of War: A Moral and Historical Inquiry* (Princeton: Princeton University Press, 1981).

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**Abstract.** American political theorist Michael Walzer's work on the ethics of war and peace is often cited. Given, however, that he deals mainly with conflict between states, does his just war theory remain relevant for our age, in which intrastate conflict and armed humanitarian intervention seem to be more common occurrences than wars between nations? This article responds in the affirmative, suggesting that we ignore Walzer's just war theory at our peril, since it contains conceptual tools, and abiding values, that are both useful and meaningful to any consideration of the justice of resorting to force on the international stage.

**Résumé.** L'ouvrage de Michael Walzer sur l'éthique de la guerre et de la paix est une source de référence pour de nombreux auteurs. Compte tenu qu'il traite principalement des conflits entre États, on peut toutefois se demander s'il est toujours valide à notre époque, alors que les conflits internes et les interventions armées à des fins humanitaires sont devenues plus courantes que les guerres entre États. Cet article répond par l'affirmative, suggérant qu'il est risqué de ne pas tenir compte de la théorie de Walzer sur la guerre juste, compte tenu qu'elle comporte des concepts et des valeurs éternelles, qui sont utiles et significatives pour toute réflexion sur la relation entre le recours à la force à l'échelle internationale et la justice.

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Walzer's understanding of just war theory has been shaped by the works of the just war tradition. It follows that one instructive way to interpret Walzer's theory of *jus ad bellum* would be to compare and contrast it with the account of *jus ad bellum* offered by the just war tradition. The tradition contends that, for the resort to force to be justified, a state must fulfil each of the following six requirements:

*Just cause.* A state may launch a war only for the right reason. The just causes most frequently mentioned include: self-defence from external attack; the protection of innocents; and punishment for wrongdoing. Vitoria suggested that all of the proffered just causes be subsumed under the one category of "a wrong received."<sup>6</sup>

*Right intention.* A state must intend to fight the war only for the sake of a just cause. Having the right reason for launching a war is not enough: the actual motivation behind the resort to war must also be morally appropriate, that is aimed at securing the just cause.

*Proper authority and public declaration.* A state may go to war only if the decision has been made by the appropriate authorities, according to the proper process, and made public, notably to its own citizens and to the enemy state(s).

*Last resort.* A state may resort to war only if it has exhausted all plausible, peaceful alternatives to resolving the conflict in question, in particular, diplomatic negotiation.

*Probability of Success.* A state may not resort to war if it can foresee that doing so will have no measurable impact on the situation. The aim here is to block mass violence which is going to be futile.

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6 Vitoria quoted in Walzer, *Wars*, 62.

*Proportionality.* A state must, prior to initiating a war, weigh the universal goods expected to result from it, such as securing the just cause, against the universal evils expected to result, notably casualties. Only if the benefits are proportional to, or “worth,” the costs may the war action proceed.

The criteria for a just resort to force which Walzer defends are strikingly similar to, though at times importantly different from, these six traditional norms. Walzer’s omissions, amendments, explanations and justifications result in his own unique and substantive contribution to the tradition and, through it, to our shared war convention itself.

### Just Cause

For Walzer, the only just cause for resorting to war is to resist aggression. Other things being equal, wars of economic conquest, territorial expansion, religious crusade, revolutionary conversion or ethnic hatred are not just, and thus subject to criticism, resistance and punishment. But what, exactly, constitutes aggression? Walzer defines aggression as “every violation of the territorial integrity and political sovereignty of an independent state.” A state Walzer defines as a political association of people, on a given piece of land, composed of *both* the governed and the government.<sup>7</sup>

The right of territorial integrity is the right of an independent state not to be invaded by another state: “[T]he right of a nation not to be invaded derives from the common life its members have made on this piece of land.” “It is the coming together of a people that establishes the integrity of a territory,” Walzer claims, “[o]nly then can a boundary be drawn the crossing of which is plausibly called aggression.” Walzer quickly adds two caveats. The first is that not every boundary dispute is a just cause for war. But the deliberate breach of a national boundary by an invading army, for example, would be such a cause. In general, Walzer’s view of aggression “focuses narrowly on actual . . . invasions and physical assaults. Otherwise, it is feared, the notion of resistance to aggression would have no determinate meaning.” The second caveat is that Walzer concedes that the current set of boundaries is historically arbitrary. In spite of this, he asserts that “[n]evertheless, these lines establish a habitable world. Within that world, men and women . . . are safe from attack; once the lines are crossed, safety is gone.”<sup>8</sup>

The right of political sovereignty is the right of a state to shape its domestic policies within its own borders, free of foreign coercion or

7 Ibid., 52.

8 Ibid., 55-62.

control. It is the right of a political community to seek its own domestic destiny. It is the right of people freely associated together to determine those domestic choices—about citizenship, representation, taxation, production, distribution, exchange, regulation and so on—which shape their lives and frame their future.<sup>9</sup>

The violation of either of these state rights is aggression, “the crime of war.” Aggression is both “morally and physically coercive,” forcing men and women to fight for their lives and rights for no good reason. Aggression is behind all unjust wars. It is wrong to begin an unjust war because “war is hell.” War, Walzer suggests, is a form of tyranny, imposing enormous costs and outrageous sufferings on people without their consent. Thus, to cause such an experience—to expose so many people to such serious danger—without sufficient reason is unjust. Indeed, to do is to violate “rights to which we attach enormous importance . . . rights that are worth dying for.”<sup>10</sup>

Why, exactly, are state rights to territorial integrity and political sovereignty considered to be worth dying for? Why are they portrayed as being the foremost values of the international system, the violation of which constitutes “the only crime that states can commit against other states”? Why should we believe that collective associations, like states, can have rights at all? Is Walzer’s stance the product of sloppy thinking, a series of false generalizations at odds with the sobering strictures of methodological individualism? Is he advocating what some of his critics have lambasted as “a romance of the nation-state,” even “a statism without foundations”?<sup>11</sup>

Walzer responds by arguing that these state rights “derive ultimately from the rights of individuals, and from them they take their force.” Walzer does not believe that states are “organic wholes,” nor are they “mystical unions.” A state is nothing more nor less than a political association, in a given territory, composed of both the people and their government. “The deepest purpose of the state,” he submits, “is . . . defence.” This sense of defence, for Walzer, is twofold: the defence of one’s own individual life and liberty; and the defence of the common life one shares with other members of the state. “State

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9 *Ibid.*, 89. Though what constitutes a purely “domestic” policy is, of course, not always clear. Neither Walzer nor I deal with this perplexity. Some political scientists have argued that the old left-right continuum in policy debates is being replaced by a new domestic-international spectrum.

10 *Ibid.*, 53.

11 *Ibid.*, 51; and D. Luban, “The Romance of the Nation-State,” 392-97, and G. Doppelt, “Statism without Foundations,” 398-403, both in *Philosophy and Public Affairs* 10 (1980).

rights," Walzer declares, "are simply . . . [the] collective form" of individual human rights.<sup>12</sup>

Individual human rights are rights to life and liberty, entitlements we all have and which we are to treat as "something like absolute values." Human rights are at the foundation of that interpretation of wartime morality Walzer offers as the most authoritative: "Individual rights (to life and liberty) underlie the most important judgments we make about war." About the foundation of these rights themselves Walzer, by his own admission, has little to say. "It is enough, for his purposes, "to say that they are somehow entailed by our sense of what it means to be a human being. If they are not natural, then we have invented them, but natural or invented, they are a palpable feature of our moral world."<sup>13</sup>

It is ironic that so much weight is put upon human rights in Walzer's just war theory yet so little is said either about their nature or their justification. In general, human rights for him are fundamental values riven into what he calls "the thin theory of morality" shared by all "thick," everyday moralities. This thin theory, he contends, is universally shared in the sense that it is the overlapping consensus amongst the world's diverse ethical traditions. Human rights to life and liberty correlate with those universal and mainly negative prohibitions against murder, torture, gross cruelty and tyranny that Walzer insists are universally endorsed. Human rights, in the final analysis, are "something like absolute" entitlements we all have *not* to be subjected to such treatments. We know we have these entitlements by reflecting on how we—here and now, both at home and abroad—interpret the moral world. Walzer's contention is that, at its deepest level, the best interpretation of the current moral world will feature bedrock commitments to everyone's life and liberty.<sup>14</sup>

How, exactly, is it that state rights are "ultimately derived" from individual human rights, thus outlined? Walzer offers two answers. The first is that individual human rights cannot, in our world, be realized outside a secure social context, like that which the state can offer. So, if we want individual human rights to be realized, then we must be willing to authorize states to claim those elements they need to provide us with the substance of our human rights. Those elements, not

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12 Walzer, *Wars*, 53-54.

13 *Ibid.*, 54 and xxx.

14 With regard to the universality of human rights, Walzer says that "the language of rights . . . is translatable" *Thick and Thin*, 10. Doubts can be suggested by reflecting on Walzer's largely negative conception of human rights. For a contrast, see H. Shue, *Basic Rights: Subsistence, Affluence and U.S. Foreign Policy* (Princeton: Princeton University Press, 1980); and J. Nickel, *Making Sense of Human Rights* (Berkeley, CA: University of California Press, 1987).

implausibly, include access to material resources and a secured space allowing for free political choice. "Rights in the world have value," Walzer observes, "only if they have dimension."<sup>15</sup>

His second answer to the question of derivation is more complex. He admits that "the process of collectivization is a complex one" but "is best understood . . . in terms of social contract theory." This contract, however, is not an explicit, deliberate, bargain between self-interested rational choosers: "The rights of states [do indeed] rest on the consent of their members. But this consent is of a special sort." It is "a process of association and mutuality." Through "shared experiences and cooperative activity," people in a given territory come over time to "shape a common life."<sup>16</sup> This common life is something we all consent to, in the sense that we participate in it and come through interpretation to recognize ourselves in its context. We are both its creators and its creatures. This shared life we forge together in a common space. "The social contract," Walzer says, "is an agreement to reach decisions together about what goods are necessary to our common life, and then to provide those goods for one another." It is "a moral bond . . . creating a union that transcends all differences of interest, drawing its strength from history, culture, religion, language and so on."<sup>17</sup> "Contract," he writes, "is a metaphor" referring to a relation, "Burkeian in character," between "the living, the dead and those who are yet to be born." It is a metaphor referring to the fact that people have always banded together, both for self-protection and to enjoy those other goods that they could not enjoy at all were they not members of a community, surrounded by the protection afforded by a state. Indeed, Walzer contends that membership in a political community is "the primary good," the means by which all other goods get produced, distributed, defended, interpreted and enjoyed.<sup>18</sup>

It is crucial to note that, for Walzer, the moral standing of a state *is contingent upon* its protection of its members, both individually and collectively. A state's legitimacy "depends upon the reality of the common life it protects and the extent to which the sacrifices required by that protection are willingly accepted and thought worthwhile." "If no common life exists," he says, "or if the state doesn't defend the common life that does exist, its own defence may have no moral justification." A state riven by serious ethnic division, for example, could face questions about its legitimacy. Likewise for a state in which the government turns against its own people and engages in "terrible

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15 Walzer, *Wars*, 58.

16 *Ibid.*, 54.

17 M. Walzer, *Spheres of Justice* (New York: Basic Books, 1983), 65 and 82.

18 M. Walzer, "The Moral Standing of States," *Philosophy and Public Affairs* 3 (1979/80), 211; and Walzer, *Spheres*, 31.

human rights violations,” such as “massacre or enslavement.” Such a state violates the thin and universal moral code contained within all thick moralities, and so can only be judged an outlaw regime with no entitlement to noninterference on the part of other states. But a state wherein the people enjoy “a genuine contract”—offering both Hobbesian self-protection and a Burkeian “community of character”—is a state entitled to territorial integrity and political sovereignty.<sup>19</sup>

So for Walzer any violation of these state rights is unjust, constituting aggression. Any invasive boundary crossing into the territory of a legitimate, “genuine contract” state counts as aggression, as does any grievous coercion of its domestic political choices. While Walzer does focus on acts of aggression which involve invasion and attack, it is not strictly speaking true to say that, for him, aggression *necessarily* involves physical assault, the deployment of armed force. Though he suggests that such is a useful conservative presumption to have about aggression, we shall see that he does allow for exceptional cases of anticipatory attack. He also offers a helpful, albeit partial, list of actual instances of aggression in the twentieth century: Germany against Belgium in 1914; Italy against Ethiopia, and Japan against China, in the mid-1930s; Germany against Czechoslovakia, Poland, Denmark, Belgium and Holland in the late 1930s; Russia against Hungary in 1956 and against Czechoslovakia in 1968.<sup>20</sup>

Victims of aggression, thus conceived, “are always justified in fighting” and, in most cases, “fighting is the morally preferred response.” Why is this so, especially when we realize that most cases of aggression involve a large and powerful state deploying its armed force to coerce a less powerful state to make unjust concessions? Is not appeasement of the aggressor a defensible response from the victim? Is not neutrality by third parties a legitimate choice? Walzer stresses that, ultimately, the decision to resist aggression, whether by the victim or by third party vindicators, can only be a free choice of the state in question. This follows from the right of political sovereignty. But he clearly articulates his preference in favour of resistance, especially by the victim. For resistance “confirms and enhances . . . our common values [including] national pride, self-respect, freedom in policy-making” whereas appeasement “diminishes those values and leaves us all impoverished.” Sometimes both appeasement and neutrality constitute “a failure to resist evil in the world.” The unchallenged triumph of aggression, Walzer asserts, is “a greater evil” than war.<sup>21</sup>

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19 Walzer, *Wars*, 54, 86-106; Walzer, “Standing,” 211; and Walzer, *Spheres*, 62.

20 Walzer, *Wars*, 62, 292.

21 *Ibid.*, 51, 67-72, and 233-38.

So the only just cause for resorting to war, as Walzer sees it, is in response to aggression, as here conceived. The response may be two-fold: a war of self-defence on the part of the state victimized by aggression; and a war of other-defence, or “law enforcement,” on the part of any other state coming to aid the victim. Walzer is adamant that there is no such thing as a war just on both sides. All things considered, he believes, the evidence can point in only one of two directions: *either* that, in a given war, one side is the unjust aggressor, the other the justified defender *or* that the war is unjust on both sides.

### Right Intention

Considering this second rule of *jus ad bellum*, Walzer observes that “a pure good will [is] . . . a political illusion.” He also notes an unclarity in the just war tradition regarding whether this rule can be fulfilled only if there is purity of intention to secure the just cause, or whether it is possible to meet it, provided only that right intention is present amongst the ordinary mix of motives which animates state behaviour. Walzer himself opts for the latter course: he believes it is possible, and meaningful, to criticize some of the nonmoral motives that states can have in going to war while still endorsing the moral motive. But that motive *must* be present: Walzer concurs that right orientation towards just cause is a necessary aspect of the justice of resorting to war.<sup>22</sup>

A related question Walzer fails to answer is this: must the moral motivation merely be present in the mix of motives, or need it be the main animating force in the mix? Consider, for example, the mix of motives that the Allied coalition, led by the United States, might have had in 1991 for launching the Persian Gulf War against Iraq: the repulsion of Iraq from Kuwait; the punishment of Iraqi aggression; the desire to secure the oil supply of the Persian Gulf region; the desire by the United States to prove its unsurpassed superiority following the end of the Cold War with the Soviet Union; and the drive of the US military to test out its latest weaponry in real battlefield conditions. While we might expect Walzer to endorse the requirement that the moral motive be dominant in the mix, there are serious difficulties involved in discerning which one dominates, as we can see here with regard to the Gulf War. This might make it more plausible, though less interesting, to conclude that the moral motive need only be real and present amongst the various nonmoral motives for this criterion to be fulfilled.<sup>23</sup>

22 Ibid., xix.

23 Ibid., xix-xx. For more on the Gulf War, see: D. Decosse, ed. *But Was It Just? Reflections on The Morality of the Persian Gulf War* (New York: Doubleday, 1992). Note Walzer's own opening essay, “Justice and Injustice in the Gulf War.”

One interesting aspect of right intention which Walzer fails to consider is whether it should be part of the justice of the resort to war that a state commit itself both publicly and in advance, as a matter of right intention, to adhering to the other rules of war, contained in *jus in bello* (the justice of conduct in war) and *jus post bellum* (the justice of peace treaties ending war). The idea here, first proposed by Kant, is that a state should commit itself to certain rules of conduct, and appropriate war termination, as part of its original decision to begin the war. If it cannot so commit, it ought never to start the process. Such would seem an important and forward-looking way in which one could run a normative thread through each of the three just war categories, tying them into a coherent whole. This Kantian addition is compelling not only because of the moral import of an agent's intent but, moreover, to ensure consistency of just behaviour throughout all three phases of a military engagement.<sup>24</sup>

A frequent criticism of the right intention criterion is that it is impossible to know whether a state has fulfilled its requirements, given the vagueness of intent. But it should be noted, as Walzer does, that this criticism is easily exaggerated. Intentions can be, and ought to be, discerned through a reasoned examination of publicly accessible evidence, relying on behaviour, consideration of incentives and explicit avowals of intent. Intentions are neither infinitely redescribable nor irreducibly private—they are connected to patterns of evidence, as well as constrained by norms of logical coherence—and so right intention is not a vacuous criterion for moral judgment during war. Though difficult, it is possible to tell whether a state is prosecuting a war out of ethnic hatred, for example, as opposed to vindicating its right of self-defence. That kind of dark motivation produces distinctive and noticeable results, such as torture, massacres, mass rapes and large-scale displacements. We have the recent civil wars in the former Yugoslavia to offer as historical evidence.<sup>25</sup>

Perhaps a deeper critical question can be raised here: can collective agents like states have intentions at all? Implicit in all of Walzer's reasoning thus far is a systematic analogy between the behaviour of states and the behaviour of individual persons. Does it make sense to speak of state "rights" and "intentions"; to refer to "crimes" that

24 For more on this posited addition to right intention, see Brian Orend, *War and International Justice: A Kantian Perspective* (Waterloo: Wilfrid Laurier University Press, 2000).

25 For more on the Bosnian civil war of 1992-1995, see R. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University of America Press, 1996), 192-212; D. Reiff, *Slaughterhouse: Bosnia and The Failure of the West* (New York: Simon and Schuster, 1995); and Human Rights Watch, *Slaughter Among Neighbors* (New Haven: Yale University Press, 1995).

states commit against each other, like aggression, which can be responded to and “punished”; of states acting for the right reasons, out of the proper motives? Walzer is the first to admit his reliance on what is now called “the domestic analogy.”<sup>26</sup> This analogy implies that one of the most useful ways to understand how states behave vis-à-vis each other is to liken such behaviour to the way in which individuals behave vis-à-vis each other. It is important to note that this analogy need not, and for Walzer does not, involve any kind of mystical conception of the state. The domestic analogy, rather, draws its vitality from the sheer difficulty of speaking about the behaviour of complex entities like states without employing simplifying assumptions, such as that they have a discernible identity, have intentions, face choices between alternatives, are thus responsible, and so on. It should also be emphasized that the domestic analogy is merely that: it is only generally persuasive and neither precludes the existence of important dissimilarities nor commits us to a monolithic and homogeneous conception of the state. The main point here, as Walzer sees it, is interpretive: we have always employed the domestic analogy in our moral discourse about the ethics of war and peace. It is riven into the deepest structure of our talk about war, and we all understand what is meant by it. Thus, any account which purports to be the best interpretation of that discourse must itself make use of the domestic analogy.

### **Public Declaration of War by a Proper Authority**

Walzer makes next to no mention of the criterion of public declaration of war by a proper authority. This seems an oversight on his part. For once we get beyond its apparent quaintness. We see how it represents an important constraint on the power of state mechanisms to risk the lives and liberties of their citizen members in such a dangerous enterprise as war. If state prerogatives in times of war are to be kept in line with the human rights of their member citizens—which purportedly ground such state rights in the first place—we cannot lose sight of this just war criterion. The people must, in some public procedure, meaningfully consent to the launching of a war on their behalf.<sup>27</sup>

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26 Walzer, *Wars*, 58; and H. Suganami, *The Domestic Analogy and World Order Proposals* (Cambridge: Cambridge University Press, 1989).

27 Walzer, *Wars*, 34-40 and 138-43; and M. Walzer, *Obligations : Essays on Citizenship, War and Disobedience* (Cambridge: Harvard University Press, 1970).

## Last Resort

"It is obvious", Walzer says, "that measures short of war are preferable to war itself." "One always wants to see diplomacy tried before the resort to war, so that we are sure that war is the last resort." In spite of this endorsement of the traditional last resort criterion, Walzer is quick with some caveats. First, he points out that, strictly speaking, there is no such thing as a last resort. No matter how fearful the situation, there is always something else that can be tried—yet another round of diplomatic negotiations, for instance—prior to the resort to war. So it would be absurd, in this literal sense, to say that states may turn to war only as a last resort.<sup>28</sup> A second caveat concerns the fact that negotiations, threats and economic sanctions are frequently offered as more compelling means of international problem solving than the use of force. At face value, this claim is indisputable: if a reasonable resolution to the crisis in question can be had through a credible and permissible threat, or through a negotiating session, or perhaps through sanctions, then surely that is preferable to running the sizable risks of war. Upon closer inspection, however, much depends on the nature of the particular act of aggression and the nature of the aggressive regime itself. Sometimes threats, diplomacy and sanctions will not work. Walzer cites the incidents leading up to the Persian Gulf War as a case in point. Care must be taken that appeals to last resort do not end up rewarding aggression.<sup>29</sup> Finally, Albert Pierce and Lori Damrosch have pointed out that the levelling of systematic economic sanctions often violates the *jus in bello* principle of noncombatant immunity, since it is most often innocent civilians (often the poorest and most vulnerable) who bear the brunt of economic embargoes. In the absence of force directed against them, outlaw regimes always seem to find a way, within their own borders, to take care of themselves; the Hussein regime in Iraq, once more, is an instructive case study.<sup>30</sup>

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28 Walzer, *Wars*, 84, xiv.

29 *Ibid.*, xiii-xiv. See also L. Freedman and E. Karsh, eds., *The Gulf Conflict (1990-91): Diplomacy and War in the New World Order* (Princeton: Princeton University Press, 1993); W. Danspeckgruber and C. Tripp, eds., *The Iraqi Aggression Against Kuwait* (Boulder: Westview, 1996); James Turner Johnson and G. Weigel, eds., *Just War and Gulf War* (Washington, DC: University Press of America, 1991); and A. Beyer and B. Green, eds., *Lines in the Sand: Justice and the Gulf War* (Louisville: John Knox, 1992).

30 Walzer, *Wars*, xxv-xxxii; A. Pierce, "Just War Principles and Economic Sanctions," *Ethics and International Affairs* 10 (1996), 99-113; L. F. Damrosch, "The Collective Enforcement of International Norms Through Economic Sanctions," *Ethics and International Affairs* 8 (1994), 60-80; and D. Cortright and G. Lopez, *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?* (Boulder: Westview, 1995).

It seems much more plausible to contend *not* that war be the literal last resort after all other means have been exhausted but, rather, that states ought not to be hasty in their resort to force. There ought to be a strong presumption against the resort to force. Article 2(4) of the United Nations' Charter is clear evidence of our deep commitment to such a presumption.<sup>31</sup> But beyond this general principle, much depends on the concrete details of the actual situation in question. It is critically important, for example, when the aggressor is mounting a swift and brutal invasion, to respond effectively before all is lost. It is also relevant to consider the nature of the territory of the victim of aggression; if it is a tiny country, like Israel, the need for a speedy and effective response against aggression will likely be much greater than that required by a country the size and strength of the United States. The response of the international community is likewise relevant. But attention must always be focused on the nature and severity of the aggressor and its actions, for often the international community is sluggish in mounting an effective response to aggression. The key question this criterion demands always be asked, and then answered in the affirmative, is: is the proposed use of force reasonable, given the situation and the nature of the aggression?

### Probability of Success

Probability of success is another *jus ad bellum* rule for which only general principles can be convincingly conveyed. Its prudential flavour explains this: probability of success is always a matter of circumstance, of taking reasonable options within the constraints and opportunities presented by the world. The traditional aim of this criterion is to bar lethal violence which is going to be futile. As such, the principle is laudable and necessary for any comprehensive just war theory. Walzer himself endorses consideration of "reasonable expectations of success."<sup>32</sup> Great care, however, needs to be exercised that this criterion, like last resort, does not amount to rewarding aggression, and especially that by larger and more powerful nations. This is so because smaller and weaker nations will face a comparatively greater task when it comes to fulfilling *this criterion*. Walzer concurs, contending that we ought not to acquiesce in a grave crime such as aggression. The calculation of expected probability of success for resorting to war, after all, is incredibly difficult. The vicissitudes of war are, as we know from history, among the most difficult phenomena to predict. Even when the odds seemed incredibly long, remarkable successes

31 Regan, *Cases*, 214; and Reisman and Antoniou, eds., *Laws*, 5-9.

32 Walzer, *Wars*, 107.

have sometimes, somehow, been achieved. Such are the stuff of military legend. Walzer himself cites the initial successes of the Finnish resistance to the Soviet invasion of 1939-1940. The lack of predictability, though, does not always turn out for the better. A notorious example is that the armies of Europe expected, in September 1914, to be home to celebrate Christmas.<sup>33</sup> Walzer also suggests that there are considerations of self-respect here, according to which victims of aggression ought to be permitted at least some resistance, should they decide on it, as an expression of their strong objection to the aggression and as an affirmation of their rights. It thus seems reasonable to agree with Walzer that, given an act of aggression and given that the other *jus ad bellum* criteria are met, there is a presumption in favour of permitting some kind of armed response, even when the odds of military success (however defined) seem long. At the same time, this rule is not dormant: it remains important that communities contemplating war in response to aggression still consider whether such an extreme measure has any reasonable probability of success. That is the least, we might say, that they owe themselves.

### Proportionality

Proportionality is one of the most contentious and challenging *jus ad bellum* criteria. It mandates that a state considering a just war must weigh the expected universal benefits of doing so against the expected universal costs. Only if the projected benefits, in terms of securing the just cause, are at least equal to, and preferably greater than, such costs as casualties may the war action proceed. Walzer wrestles at length with the difficulties presented by this rule. On the one hand, the unchecked triumph of aggression is for him “a greater evil” than war. He also comments that “prudence can be, and has to be, accommodated within the argument for justice.” His endorsement of such criteria as last resort, and probability of success, shows him making such accommodations. On the other hand, Walzer comments on “the terrible presumption” behind the cost-benefit comparisons implicit in appeals to proportionality. He declares that “we have no way that even mimics mathematics” of making such proportionality judgments. He asks rhetorically: “How do we measure the value of a country’s independence against the value of defeating an aggressive regime?” How can we pretend to measure, on the same scale of value, the benefits of defeating aggression against the body count needed to achieve it?<sup>34</sup>

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33 Ibid., 67-74.

34 Ibid., xv-xxi.

The challenges of proportional calculation explode, in both number and complexity, as soon as one puts the least thought to the question. What count as costs and benefits in wartime? Only elements we can quantify, like casualties? But usually we also want to appeal to qualitative elements, like the value of sovereignty. Is there a distinction between explicit and implicit costs? Short-term and long-term benefits? Is it only the costs and benefits of prudence that matter, or do those of morality count as well? How do we weigh the “universal” costs and benefits against each other when, usually during war, those who pay the costs are not the same group as those who enjoy the benefits, as when soldiers pay the present price for the future independence of their compatriots? The manifest, and manifold, difficulties involved in proportionality calculations are vexing to Walzer. The calculations needed are simply too complex and wide-ranging. It is wildly improbable that we could ever devise a completely satisfying set of cost-benefit formulae with regard to wartime action. Far better, Walzer suggests, to stick to a firm set of clear and universal rules to guide conduct.

Walzer’s final judgment on this issue seems to be that there is some “truth in the proportionality maxim.” But he insists that “it is a gross truth” which can only point to obvious considerations of prudence and utility as limiting conditions on the pursuit of rights-respecting justice in wartime. Proportionality, at best, provides some checks and balances, some outside constraints, on the drive to secure a just cause. For example, he says that, even though justice may have permitted otherwise, it was appropriate on grounds of proportionality that the United States did not go to war against the Soviet Union after it invaded Hungary in 1956 or Czechoslovakia in 1968.<sup>35</sup>

### **The Second World War as an Example of a Just War**

One of Walzer’s most fervent, and frequently repeated, beliefs is that the Second World War, on the part of the Allies, was a just war. Not only was Nazi Germany a multiple aggressor, violating state rights through numerous invasions in the 1930s, Nazism itself was

an ultimate threat to everything decent in our lives, an ideology and a practice of political domination so murderous, so degrading even to those who might survive, that the consequences of its final victory in the World War II were literally beyond calculation, immeasurably awful. We see it (and I don’t use the term lightly) as evil objectified in the world, and in a form so potent and apparent that there never could have been anything to do but fight against it.

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35 *Ibid.*, xv-xxi.

This very tight passage refers to nearly all his *jus ad bellum* norms: that the Nazis had, through their multiple aggressions, given just cause to the Allies to respond with war; that there was no choice, in the last resort, but for the Allies to fight; and that the proportionality condition was fulfilled by the Allies because succumbing to Nazi aggression would have been “immeasurably awful.” He also could have mentioned that the Allies did seem to have the proper motivation to defeat Nazi Germany, that they enjoyed a measure of probability of success right from the start and that their resort to force was publicly declared by their legitimate national governments.<sup>36</sup>

### Revisions to the General Account of *Jus ad Bellum*

Walzer admits that there need to be at least three revisions to “the legalist paradigm” of *jus ad bellum* that he has thus far developed. We cannot simply rest content with the above norms, precisely because as stated their application appears limited to those classic cases of interstate war which increasingly seem to be the past, and not the present and future, face of warfare. We all know about the Second World War, we might say, but what about recent civil wars in central Europe and Africa? What about NATO’s bombing of Serbia on behalf of the Kosovars? What, if anything, can Walzer’s theory of wartime justice tell us about these more recent and relevant cases?

Before discerning how Walzer amends his account to deal with such instances of armed conflict, we must add that these amendments all have to do with the just cause requirement. He presupposes without mention that all the other criteria—right intention and so on—for a justified resort to force still hold for the three revisions which follow. The amendments are all in terms of expanding the just cause for resorting to armed force beyond the current ambit of responding to interstate aggression. This point underlines part of the continuing relevance of Walzer’s just war theory as thus far developed: the other categories remain at play in aiding the judgment of any deployment of armed force, whether within a war, a civil war, an armed intervention and so on. It is always relevant to reflect on last resort and proportionality, for example, in any unleashing of armed force. Thus, it was worth our while above to delve into the full import of the just war categories as Walzer constructs them.

The first revision to Walzer’s account of *jus ad bellum* deals with anticipatory attack. Here, he walks a fine line between two extremes:

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36 M. Walzer, “World War II: Why Was This War Different?” *Philosophy and Public Affairs* 1 (1971/72), 3-21; Walzer, *Wars*, 233-68; and A. J. P. Taylor, *Origins of the Second World War* (London: Hamilton, 1961).

denying that anticipatory attack by one state on another is ever justified; and supporting the doctrine of preventive war. A preventive war, as he sees it, is a war prosecuted in the present for the sake of maintaining the future balance of power, itself thought necessary for long-term peace and security. Such wars used to be very frequent in Europe, especially in the eighteenth century. The grounds most frequently offered for preventive war are utilitarian, and Walzer relishes in his familiar contention that the calculations required to ground preventive war are too fantastic to be plausible. Furthermore, the danger to which preventive war is intended to respond is too distant and speculative. If anticipatory attack is to be grounded at all, the danger it is aimed at must be imminent, not distant; it must be a threat which is concrete, not merely abstract.<sup>37</sup>

A sufficient threat for justifying an anticipatory attack, Walzer suggests, is composed of three elements. The first is “a manifest intent to injure,” revealed *either* through a bitter history of conflict between the communities in question, like the Arab-Israeli struggle, *or* through recent and explicit threats. Walzer suggests that the object of a justified anticipatory attack can only be “a determined enemy,” one demonstrably committed to doing harm to one’s political community. The second element of sufficient threat is “a degree of active preparation that makes the intent a positive danger.” Mere malign intent, even given a conflictive history and/or recent hostile declarations, is not enough to ground anticipatory strikes. There must also be a measurable military preparation on the part of the proposed object of the attack, such as its build-up of offensive forces along the border. Finally, the situation must be one “in which waiting, or doing anything other than fighting, greatly magnifies the risk [of being attacked].” Only under all three conditions is an anticipatory attack justified. Walzer’s favourite example is Israel’s first strike during the Six Day War of 1967.<sup>38</sup>

In general, “states may use military force in the face of threats of war, whenever the failure to do so would seriously risk their territorial integrity or political independence.” Indeed, he goes so far as to contend that, should State X be faced with these three conditions involving Bellicose State Y, then Y has already committed aggression against X and thus X at least has just cause to launch an attack. We now see how, for Walzer, the actual deployment of force is not a necessary condition for aggression to have occurred. It is no less a violation of state rights to pose “a serious risk” to the political sovereignty and territorial integrity of a legitimate state than it is to launch an armed invasion against it. Though there are obvious and serious concerns to be raised here with

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37 Walzer, *Wars*, 74-80.

38 *Ibid.*, 74-85.

regard to loosening the conception of aggression, Walzer himself stresses that anticipatory attack can only be exceptional, and a very burdensome weight of justification is borne by the attacker to prove, with evidence, that the three general criteria really do hold in its case.<sup>39</sup>

Lest one get the impression that Walzer is far too partial, in his just war judgments, to those communities he is personally connected to, like the US and Israel, it should be noted that, for him, the armed intervention by the US in Vietnam was unjust.<sup>40</sup> Indeed, the entire sub-text of historical application in *Just and Unjust Wars* is devoted to showing that the Second World War exemplifies just, whereas Vietnam exemplifies unjust, wars. Armed intervention, Walzer says, “can sometimes be justified” and it “always has to be justified.” The burden of proof regarding justification is always on the side of the intervenor and is “especially heavy,” owing to the value of nonintervention, which is corollary to political sovereignty. “The members of a political community,” other things being equal, “must seek their own freedom, just as the individual must cultivate his own virtue.”<sup>41</sup> It is only if other things are *not* equal that intervention can be grounded. When does that occur? Walzer cites three cases.

The first case is one where the state in question contains many nations—diverse political communities—and one of them is already engaged in an internal war for secession from the central government which, in turn, is fighting to keep it down. Walzer stresses that a justified intervention from an outside party cannot merely be in support of some garden-variety disenchanting minority group. Outside support may be forthcoming only if the leaders of that disenchanting minority group clearly articulate its communal will, have mobilized their people on a significant basis, and have already launched an internal struggle against the central government. In a sense, such a secessionist movement has to win what international lawyers often call “belligerent rights” to external recognition and assistance. They have to prove themselves worthy, so to speak, of armed intervention on their behalf: by proving their representativeness; by taking clear action in favour of their own cause; by their overwhelming investment in their own future independence.<sup>42</sup>

The second case justifying intervention for Walzer is counter-intervention, designed to offset the influence of another foreign power who has already intervened unjustly, often in a civil war context. The goal of counter-intervention, as Walzer sees it, is not to win the war

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39 Ibid.

40 Ibid., 96-100, 186-96, 296-303 and 309-15. Walzer cites the Vietnam War as the event which first triggered his interest in just war theory.

41 Ibid., 87-88.

42 Ibid., 86-95.

but rather to enable genuine self-determination. The ideal is to offset the imbalance injected into the local struggle by the first foreign intervention, and then let local forces prevail. This is a rather precious and artificial way of putting it, and one recalls Walzer's own skepticism about our ability to measure accurately such balances of probability. In practical terms, how is an army to know the difference between when it has merely offset the existing foreign interference and when it has actually tipped the scales in favour of its own side, presumably undermining "genuine" self-determination at the local level? Though he offers no clear answer to this important question, Walzer does stress that counter-intervention may only be on behalf of a legitimate regime, one that possesses the required "fit" between governors and governed, and which has passed the self-help test.<sup>43</sup>

It is under this rubric that Walzer contends the US intervention in Vietnam in the 1960s-1970s was unjustified. American intervention in Vietnam was most frequently justified, at the time, as a counter-intervention in South Vietnam to offset the prior (largely covert) intervention of communist North Vietnam. Walzer does not deny that the North was actively involved in weakening the regime of the South. But his contention is that, in any event, the South Vietnam regime was illegitimate by the time the US intervened. Not only did the regime betray its pledge to participate in Vietnam-wide elections in 1956,<sup>44</sup> but its very weakness was radical enough to undermine its claims of representing its people. There were, for example, nine separate administrations in South Vietnam between 1963 and 1965. The weakness of the government of the South was a reality induced not merely by covert tinkering by the North but, moreover, by its own lack of legitimacy amongst its people. "[T]he continuing dependence of the new regime on the U.S. [was] damning evidence against it . . . a government that receives economic and technical aid, military supply, strategic and tactical advice, and is still unable to reduce its subjects to obedience, is clearly an illegitimate government." And counter-intervention on behalf of an illegitimate government is not counter-intervention at all. It is aggressive intervention in a civil war, and thus unjust.<sup>45</sup>

The third and final revision to Walzer's canonical account of *jus ad bellum* concerns humanitarian intervention, such as occurred in Kosovo in 1999. Humanitarian intervention seems, at first, to pose a special problem for Walzer's aggression-based paradigm, since it involves armed intrusion in a country which has not committed aggression

43 Ibid., 96-100; and Walzer, "Standing," 210-25.

44 Something it pledged to do in the 1954 Geneva Agreement, which was a peace treaty ending the first phase of the Vietnam War, between the communist North and the French-sponsored South. See Regan, *Cases*, 136-50.

45 Walzer, *Wars*, 99.

against another state. Moreover, such intervention is animated by moral and political ideals which may seem to lack universal endorsement, and thus raise the ugly spectre of violent paternalism on the global stage. Treat your people the way we think you should, or else feel our wrath.

The only kind of armed humanitarian intervention which Walzer accepts is intervention designed to rescue citizens of a state from "acts that shock the moral conscience of mankind." He is willing to countenance armed humanitarian intervention only in cases where the state in question is engaging in widespread human rights violations. He is keen to stress the degree to which the human rights violations must be "massive" and "terrible," such as incidents of "massacre and enslavement," to ground armed intervention by a foreign power.<sup>46</sup> As examples of justified interventions, Walzer cites India in East Pakistan in the early 1970s, Vietnam in Cambodia in the mid 1970s and NATO in the former Yugoslavia throughout the 1990s.

Walzer has come under critical fire for his stress on the magnitude of rights violations that must be present to justify intervention. Critics like Charles Beitz, David Luban and Gerald Doppelt have suggested that regimes which fail to respect human rights, yet do not go so far as to massacre or enslave their citizenry, have lost their legitimacy as readily (though not as dramatically) as those monstrous few—like Pol Pot's Cambodia—which resort to massacre. Why should foreign states which themselves respect human rights be barred in principle from intervening in such illegitimate regimes? Do not such regimes stand in as much need of coercive correction as those already utterly beyond the pale?<sup>47</sup>

Walzer offers a manifold response. First, his own conception of human rights, we have seen, is minimalist and thin, focused on those basic claims to life and liberty which correlate with universal prohibitions against murder, torture and enslavement. So he might argue about which kinds of government misdeed actually count as human rights violations. The regimes that Beitz, Doppelt and Luban cite—like Algeria—might well, under Walzer's conception, not qualify as human rights violators at all. Walzer's preferred response, however, is to insist on the principle of self-determination. Faced with what we might call "run-of-the-mill" government hostility to human rights claims, citizens need to take it upon themselves to begin the kind of political activism and struggle needed to win such freedoms and benefits. Self-help is the order of the day. This coheres with Walzer's gen-

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46 Ibid., 103-08.

47 I say "in principle" because both Beitz and Doppelt agree that such intervention might be ruled out on grounds that it fails the proportionality test. See Luban, "Romance," 392-98, Doppelt, "Statism," 398-403, and C. Beitz, "Nonintervention and Communal Integrity" *Philosophy and Public Affairs* 10 (1980), 385-91.

eral understanding of a political community as one in which people band together not only for self-protection but also to shape a common way of life, "to express their inherited culture through political forms worked out among themselves."<sup>48</sup> Such political communities "cannot be set free, as he [that is, an individual] cannot be made virtuous, by any external force." "It is not true," for Walzer, "that intervention is justified whenever revolution is; for revolutionary activity is an exercise in self-determination, while foreign interference denies to a people those political capacities that only such exercise can bring." Thus, it is only those "terrible human rights violations" that "make talk of community or self-determination . . . seem cynical and irrelevant" which justify armed humanitarian intervention by a foreign power. In these extreme cases, it is precisely the incapacity for self-determination that draws foreigners in, and rightly so. The domestic citizenry is not only desperate but doomed without international armed rescue. Walzer actually believes that such humanitarian intervention is obligatory, whereas intervention in a secessionist struggle, or in a civil war, is merely permissible. This sense of obligation is displayed when he avers that: "People who initiate massacres lose their right to participate in the normal . . . processes of domestic self-government. Their military defeat is morally necessary."<sup>49</sup>

Walzer's critics argue that he himself may be guilty of a kind of cynicism with regard to human rights violations. For if human rights constitute the moral basis of his doctrine, how is it that some human rights violations are allowed to go unchallenged, on grounds of communal self-determination? Why must we attend only to the most horrific and obvious cases of massacre, cases in which there is near-unanimity on the need to intervene? Walzer responds, intriguingly, by urging that he does not rule out all attempts to exercise foreign influence in a country which violates human rights yet does not engage in massacres. What he does rule out, in such cases, is war.<sup>50</sup> But Beitz wonders why Walzer can tolerate nonviolent interference with these countries and yet balk at violent interference. What is the difference in principle here—the difference in just cause, so to speak—as opposed to the admitted difference in proportionality considerations? Beitz's pointed question is designed to flesh out a tension in Walzer's work between the explicit grounding of his just war theory in human rights protection, and an implicit sense that, when push comes to shove, it is really the communal prerogatives of sovereign states which enjoy pride of place.

48 Walzer, "Standing," 211.

49 Walzer, *Wars*, 103-08.

50 He steps gingerly around this topic at "Standing," 223 in n. 26. See also Beitz, "Communal," 389.

Walzer responds to this forceful challenge by stressing, first, that there is a difference of degree so large between violent and nonviolent interference that it all but constitutes a difference in kind. For violent intervention involves killing and being killed, an unleashing of danger so serious and far-reaching that it seems noncomparable to diplomatic protest, nonco-operation and censure. Secondly, Walzer believes that Beitz's challenge, as stated, relies on a dichotomy between individual human rights and the rights of legitimate states which is overdrawn. Individuals need state protection for their own effective and reliable self-protection. Moreover, the individual right to liberty implies some entitlement to participate in a shared way of life, free of foreign coercion or control. It would be paternalistic, he suggests, to deny people those capacities for self-determination that are implied in political activity, opposition and struggle. Indeed, a war on their behalf could end up being violently paternalistic. Walzer admits that self-help is a "stern doctrine" but nevertheless one to which we are most deeply committed. The unleashing of international armed force for humanitarian purposes is grounded only in those very rare cases where there is no hope of self-determination, when commonplace callousness by a government has been replaced by a "savage turn" on its people, resulting in massacre or enslavement.<sup>51</sup>

Walzer is especially critical of those who, when confronted with such a grave and genuine humanitarian emergency, reason as follows: yes, there's a fire burning and firefighters are probably needed to put it out; but it's not our building, so there's no claim on our resources, much less our firefighters. Walzer's rejoinder: "[T]he price of sitting and watching is a kind of moral corruption that . . . [we] must always resist." What about those who argue against intervention, not so much out of a misplaced respect for whose turf it is but, rather, out of fears of intervening in a conflict they know little about, of running the risk of making things worse? Walzer answers: "Of course, every fire has a complicated social, political and economic background. It would be nice to understand it all. But once the burning begins something less than full understanding is necessary: a will to put out the fire—to find firefighters, close by if possible, and give them the support they need." Fires like the ethnic cleansing in Bosnia, or the mass expulsion of Kosovars from Serbia, require us to "see the fires for what they are: deliberately set, the work of arsonists, aimed to kill, terribly dangerous."<sup>52</sup>

What about those who urge absolute nonintervention, even in such humanitarian catastrophes, on grounds that such might be a slippery

51 Walzer, *Wars*, 87.

52 M. Walzer, "Kosovo," *Dissent* 46 (Summer 1999), 5-7. See also Brian Orend, "Crisis in Kosovo: A Just Use of Force?" *Politics* 19 (1999), 125-30.

slope to imperial aggrandizement, to great power meddling in vulnerable communities? Walzer's reply is that such is always a risk, but not one so real it justifies wilful nonintervention in a clear humanitarian emergency. Consider, as he says, that in recent history, those countries that have cried out for armed humanitarian intervention have not exactly been prime pieces of global real estate. The temptation to take another's territory has simply not been there. The risk far greater than great power meddling or aggrandizement, in Walzer's judgment, is the moral indifference that leads to nonintervention, even in spite of overwhelming evidence of a grievous and preventable humanitarian tragedy. Rwanda, of course, serves as the most haunting recent example of this. So concerned has Walzer become over this indifference that he has actually changed his views about what justice requires of an intervenor in a humanitarian emergency. Whereas he used to believe that the goal of an intervenor was "the in-and-out rule," he now believes more extensive obligations may be involved. The "in-and-out rule," designed precisely to mitigate the likelihood of great power meddling, called for intervenors to focus on "rescue, not rule": to get in, rescue the people who need it, and get out as soon as the rescue has been secured. The goal was to make intervention as little like intervention as possible, thereby maximizing space for local self-determination. Now, however, Walzer believes that recent experience demonstrates that intervenors may need to make a deeper commitment than simply "in-and-out." On the limits of this deeper commitment, Walzer is vague, if not silent.<sup>53</sup> But its content clearly involves some kind of postintervention assistance in reconstructing the society that required rescue. The world community is wrestling with precisely this issue in the Kosovo province in Serbia: how best to reconstruct the society after the massive armed intervention by NATO on behalf of the Kosovars? The question ties into deep perplexities of post-war, or postconflict, settlement and rehabilitation: issues that are only starting to get the depth of attention and inquiry they deserve.<sup>54</sup>

Finally, what of those who object to armed intervention, even in humanitarian catastrophes, on grounds that it is unclear who exactly should bear the duty of intervention? Walzer's reply: the duty to intervene forcibly in cases of humanitarian emergency is imperfect; it picks out no one specific country exactly. Rather, it is borne at large by the

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53 M. Walzer, "Preface to the Third Edition," in his *Just and Unjust Wars* (3rd ed.; New York: Basic Books, 2000), xv. For more on Rwanda, see G. Prunier, *The Rwanda Crisis: History of a Genocide* (New York: Columbia University Press, 1995).

54 See Brian Orend "Terminating Wars and Establishing Global Governance," *Canadian Journal of Law and Jurisprudence* 12 (1999), 253-95; and Brian Orend "Jus post Bellum," *Journal of Social Philosophy* 31 (2000), 117-37, for more, with additional sources.

international community. This does not, however, imply that only global agencies like the United Nations have the legitimacy to authorize and execute armed rescues in states that remain externally nonaggressive. Walzer submits that any state willing to take on the burdens of armed rescue is permitted to do so, provided of course all the criteria for a just intervention, as here laid out, have been fulfilled. The imperfection of the duty to intervene causes much of the controversy surrounding armed rescue, since a main temptation in favour of sitting on the sidelines is a sincere belief that another country, or regional grouping, is better placed to intervene. Walzer has recently grown more accommodating to the idea of experimenting with a global security force, for instance under United Nations' Security Council auspices, that might one day have responsibility for such actions. But between now and then he sees little prospect for changing from what we already have: an imperfect situation wherein we must rely on our own moral responsiveness to move in, where needed, to rescue people being massacred, enslaved or displaced by their own government. And it is indefensible, Walzer says, to suggest that failure to have intervened in one spot—for example in Tibet, or Rwanda—implies that for the sake of some twisted concern for consistency we should fail to intervene everywhere else. The more appropriate response is to regret and condemn our past mistakes—our previous acts of weakness of will—and move ahead to rescue those who need it on a more reliable basis.<sup>55</sup>

## Summary

In this article, we have attained a fuller understanding of Walzer's interpretation of the rules of *jus ad bellum* which purportedly inhere in our shared war convention. This influential interpretation includes just cause, right intention, last resort, probability of success and proportionality as criteria which must all be fulfilled before a political community may resort to war. And while this interpretation is most readily applied to classic instances of interstate aggression and resistance, he does offer some revisions to it which can allow, as matters of exception, anticipatory attacks, counter-inventions and humanitarian interventions. In doing so, he underlines the manifest relevance of his theory for our time. We dismiss (as outdated) his just war theory at our peril. As Walzer himself contends: "The shift of interest from aggression and self-defence to massacre and intervention . . . hardly changes the necessary arguments."<sup>56</sup> These enduring arguments revolve around determining what is a just cause for resorting to armed force, who has

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55 Walzer, "Preface," xiii-xvi.

56 *Ibid.*, xiv.

the authority to do so, what are the acceptable risks and expected costs of doing so, and how armed conflicts should be concluded in a forward-looking fashion.<sup>57</sup>

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57 This article discusses material that will appear in Brian Orend, *Michael Walzer on War and Justice* (Cardiff: University of Wales Press, forthcoming).