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SYMPOSIUM: WALZER AND THE MORAL STANDING OF STATES

A Few Words on Mill, Walzer, and Nonintervention

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There is a country in Europe . . . whose foreign policy is to let other nations alone . . . . Any attempt it makes to exert influence over them, even by persuasion, is rather in the service of others, than itself: to mediate in the quarrels which break out between foreign states, to arrest obstinate civil wars, to reconcile belligerents, to intercede for mild treatment of the vanquished, or finally, to procure the abandonment of some national crime and scandal to humanity such as the slave trade.

John Stuart Mill, "A Few Words on Non-Intervention"

States can be invaded and wars justly begun to assist secessionist movements (once they have demonstrated their representative character) to balance the prior interventions of other powers, and to rescue people threatened with massacres . . . because [these actions] uphold the values of individual life and communal liberty of which sovereignty itself is merely an expression.

Michael Walzer, *Just and Unjust Wars*

Nonintervention has been a particularly important and occasionally disturbing principle for liberal scholars, such as John Stuart Mill and Michael Walzer, who share a commitment to basic and universal human rights.[1] On the one hand, liberals have provided some of the strongest reasons to abide by a strict form of the nonintervention doctrine. It was only with the security of national borders that peoples could work out the capacity to govern themselves as free citizens. On the other hand, those very same principles of universal

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human dignity when applied in different contexts have provided justifications for overriding or disregarding the principle of nonintervention.

In explaining this dual logic I present an interpretive summary of Mill's famous argument against and for intervention, presented in his "A Few Words on Non-Intervention" (1859), that illustrates what makes Mill's "few words" both so attractive and alarming to us. We should be drawn to Mill's arguments because he is among the first to address the conundrums of modern intervention. The modern conscience tries simultaneously to adhere to three contradictory principles: first, the cosmopolitan, humanitarian commitment to assistance, irrespective of international borders; second, respect for the significance of communitarian, national self-determination; and, third, accommodation to the reality of international anarchy, which puts a premium on self-help national security. I stress, more than has been conventional, the consequentialist character of the ethics of both nonintervention and intervention. It makes a difference whether we think that an intervention will do more good than harm, and some of the factors that determine the outcome are matters of strategy and institutional choice. I also engage in a one-sided debate with Mill as I explore the significance of the many historical examples he employs to support his argument. Do they really support his conclusions? *Could* they, given what he knew or should have known? Given what we now think we know? My conclusion is that, persuasive as the moral logic of his argument for liberal intervention sometimes is, the actual histories of the cases he cites actually tend to favor a bias toward nonintervention—that is, against overriding or disregarding nonintervention. That said, enough of his argument survives to warrant a firm rejection of strict noninterventionism.[2]

Principles of nonintervention and intervention have been justified in various ways. In international law, "intervention" is not *any* interference but, according to Lassa Oppenheim, the influential late-nineteenth-century international legal scholar, it is "dictatorial interference" in the political independence and territorial integrity of a sovereign state. No single treaty has codified principles underlying this prohibition, and customary international law, while condemning intervention, contains numerous but contested exceptions.[3] Relevant principles in the just war tradition have been proposed by scholars, by politicians, and by citizens who have sought to provide good reasons why one should abide by these conventional principles of classic international law and good reasons why one should, on some occasions, breach them.[4]

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Mill made one of the most persuasive (though far from the first) contributions to this ongoing debate. And Michael Walzer has modernized, limited, and deepened three of Mill's most important arguments. Comparing Mill's "Non-Intervention" and Walzer's *Just and Unjust Wars* (1977) links two classic statements on just wars of intervention. Both are rooted in the liberal tradition that values freedom and equality and holds that those values should enter into foreign policy. Liberals tend to reject the moral skepticism of the realists that prioritizes the quest for power as the essential aim of statecraft.[5] But liberals also differ among themselves. Liberals supporting intervention fall into various camps. Some—strong cosmopolitans—hold that the rights of cosmopolitan freedom are valuable everywhere for all people. Any violation of these rights should be resisted whenever and wherever such violation occurs, provided that we can do so proportionally, without causing more harm than we seek to avoid.[6] But other liberals—and here we include Mill and Walzer, both often labeled as communitarians—limit the cases that justify intervention. Significantly, Mill argues for much more intervention than Walzer accepts. Both, however, start with nonintervention as the default position.

Underlying Principles

John Stuart Mill developed the core of a modern understanding of human dignity as "autonomy" and its implications for hard political choices. He saw humans as fundamentally equal, sentient beings capable of experiencing pleasure and pain. Our natural sympathy should thus lead us to choose acts and rules that maximize pleasure and minimize pain for the greatest number. But—an important qualification—he wanted to constrain this maximization of utility by prioritizing both the freedom to lead unrestricted lives (as long as those life plans did not harm the freedom of others) and the realization that not all pleasures and pains were equal. Some pleasures were higher, some lower. Some expressed human creativity, others did not. Poetry was better than "pushpin."[7]

Michael Walzer starts from a less foundational premise when he discusses rights and duties, one that looks at the practices of political communities and encompasses a wide set of varying spheres in which "complex equality" principles of justice apply differently to different goods.[8] Nonetheless, resting his arguments on consent, he arrives at liberal principles of basic human rights that shape both domestic and international policy.

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Politically, both Mill and Walzer defend two ideal principles. The first is maximum equal liberty, allowing each adult to develop his or her own potentiality on the view that each individual is the best judge of what is and is not in his or her interest, so long, however, as no one interferes with the equal liberty of others. When public regulation is necessary, the second principle, representative government, should govern. To maximize effective consent and the utility of collective decisions it would be best to give decisive weight to the preferences of the majority, as represented by knowledgeable politicians.[9]

Internationally, one might think that these principles would give rise to a commitment to an international version of the U.S. Constitution's "Guarantee Clause" (Article 4, Section 4), in which each state is guaranteed (that is, required to have) a republican representative form of government, and the Fourteenth Amendment, in which all states are required to provide equal protection of the laws to all persons. But neither for Mill nor for Walzer is this so. Instead, they argue against that kind of a global guarantee, drawing thereby an important line between domestic and international justice.

Arguments against intervention have taken the form of both direct principles and indirect (or procedural) considerations. Like many liberals, Mill dismissed without much attention some realist arguments in favor of intervention to promote "territory or revenue" in order to enhance national power, prestige, or profits. However prevalent those motives have been in history, they lack moral significance, as, Mill noted, do justifications associated with some liberal or socialist arguments that favor intervening to promote an idea or ideology.[10] War and intervention, according to Mill, has to be justified by morally relevant reasons of self-defense or beneficence.

The most important *direct* consideration for liberals was that nonintervention reflected and protected human dignity. Nonintervention allowed citizens to determine their own way of life without outside interference. If democratic rights and liberal freedoms were to mean something, they had to be worked out among those who shared them and were making them through their own participation. Immanuel Kant's "Perpetual Peace" (1795) had earlier made a strong case for respecting the right of nonintervention because it afforded a polity the necessary territorial space and political independence in which free and equal citizens could work out what their own way of life would be.[11] For Mill, intervention avowedly to help others actually undermines the authenticity of domestic struggles for liberty. First, a free government achieved by means of intervention would not be authentic

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or self-determining but determined by others, and not one that local citizens had themselves defined through their own deliberations and actions. "But the evil [of intervention]," Mill declares, "is, that if they have not sufficient love of liberty to be able to wrest it from merely domestic oppressors, the liberty which is bestowed on them by other hands than their own, will have nothing *real*, . . ."[12]

Mill provides a second powerful direct argument for nonintervention, one focusing on likely consequences, when he explains in his famous 1859 essay that it would be a great mistake to export freedom to a foreign people that was not in a position to win it on its own. In addition to not being "real," forcibly imported freedom would have "nothing *permanent*" to it.[13] A people given freedom by a foreign intervention would not, he argued, be able to hold on to it. Connecting *permanence* to *reality*, he notes that it is only by winning and holding on to freedom through local effort that one acquires a true sense of its value. Moreover, it is only by winning the "arduous struggle" for freedom that one acquires the political capacities to defend it adequately against threats of foreign invasion or domestic suppression, whether by force or subtle manipulation.[14] The struggle made self-determination a reality and sustainable by mobilizing citizens into what could become a national army capable of guarding the frontiers and into a citizenry willing to tax themselves to sustain a state.

If, on the other hand, liberal government were to be introduced into a foreign society, in the "knapsack" (so to speak) of a conquering liberal army, the local liberals placed in power would find themselves immediately in a difficult situation. Not having been able to win political power on their own, they would have few domestic supporters and many nonliberal domestic enemies. They then would wind up doing one of three things:

1. Begin to rule as did previous governments—that is, by repressing their opposition and acting to "speedily put an end to all popular institutions."[15] The intervention would have done no good; it simply would have created another oppressive government.
2. Simply collapse in an ensuing civil war. Intervention, therefore, would have produced not freedom and progress, but a civil war with all its attendant violence.
3. Become dependent on interveners who would continually have to send in foreign support. Rather than having established a free government, one that reflected the participation of the citizens of the state, the intervention

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would have created a puppet government, one reflecting the wills and interests of the intervening state.

A third argument against intervention points to the difficulties of transparency or uncertainty. Historically, it has proven difficult to identify authentic "freedom fighters." Particular national regimes of liberty and oppression are difficult for foreigners to "unpack." They often reflect complicated historical compromises—contracts of a Burkean sort among the dead, the living, and the yet to be born. Michael Walzer acknowledges, as did Mill, that sovereignty and the legitimacy of intervention ultimately depend upon the consent of those intervened against (or as Mill says, are subject to "their own spontaneous election"[16]). If the people welcome an intervention, then, Walzer adds, "it would be odd to accuse them [the interveners] of any crime at all."[17] But we cannot make those judgments reliably in advance, either because our information is incomplete or because the case is complicated by competing reasonable claims to justice. We should assume, Walzer suggests, that foreigners *will* be resisted, that nationals will protect their state from foreign aggression. For even if the state is unjust, it is their state, not ours. We have no standing to decide what their state should be. We do not happen to be engaged full-time, as they are, in the national historical project of creating it. Not every injustice that justifies a domestic revolution justifies a foreign intervention.

Fourth, the necessarily "dirty hands" of violent means often become "dangerous hands" in international interventions.[18] International history is rife with interventions justified by high-sounding principles—ending the slave trade or suttee or introducing law and order and civilized behavior—turning into self-serving, imperialist "rescues" in which the intervener stays to profit and control. Requiring that the intervener govern its actions according to the interests of the intervened, looking for something more than a unilateral decision, and respecting the multilateral processes of international law—these are important procedural considerations in weighing the justice of an intervention.

Fifth, almost all commentators in the just war tradition posit that just interventions may not violate the principles of proportionality and last resort. Villages should not be destroyed in order to be saved, and negotiation should be tried before forcible means are adopted.

Indirect reasons for nonintervention have also been important constraints. Interventions foster militarism, expend resources needed for other national and international goals, and violate international law. International laws embody the value of coordination and consensual legitimacy, for rules—almost any

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rules—have a value in themselves by helping to avoid unintended clashes with severe consequences to human life. International laws, moreover, are painstakingly achieved compromises among diverse moralities. The mere process of achieving consent makes them legitimate. They were agreed upon and *pacta sunt servanda*.[19]

Despite their commitment to nonintervention, both Mill and Walzer identify exceptional circumstances that justify intervention. Mill identifies seven; Walzer, three. Some cases involve reasons to override the nonintervention principle; others, to disregard the principle. In the first, the principles in favor of nonintervention still hold, but other considerations seem more important. In the second, the presuppositions underlying the principles do not apply to the particular case.

Exceptions that Override

Mill argued that there are three good reasons to override what should be the usual prohibition against intervention. In these arguments the considerations against intervention are present, but other more important values, "considerations paramount," as Mill says, trump them.[20]

First, Mill noted, "We must except, of course, any case in which such assistance is a measure of legitimate self-defense."[21] Acknowledging the primacy of self-help in an anarchic international system, just war philosophers and international lawyers typically raise the difficult cases of intervention to enforce the rights of nationals or rescue them from unjust imprisonment (for example, the Don Pacifico Affair in the nineteenth century; more recently, the 1976 rescue of the Israeli airliner at Entebbe), or preemptive or preventive interventions designed to remove a looming threat before an attack takes place. But Mill, in the "Few Words" essay, focuses on a less familiar case: international civil war. In an international-system–wide war that is also an internationalized *civil* war, such as that waged between Protestantism and Catholicism in the sixteenth century, or liberalism and despotism in Mill's era, nonintervention can neglect vital transnational sources of national security. "If . . . this country [Great Britain], on account of its freedom, should find itself menaced with attack by a coalition of Continental despots, it ought to consider the popular party in every nation of the Continent as its natural ally: the Liberals should be to it, what the Protestants of Europe were to the Government of Queen Elizabeth."[22] In the extreme case, if other governments are aligning with their ideological fellows overseas, irrespective of collective national interests or interstate borders, then not intervening in support of yours is dangerous.

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Table 1
Cases for Intervention: Mill and Walzer

J. S. Mill's cases favoring intervention							
	Overriding			Disregarding			
				Walzer's cases for intervention			
Case	Legitimate self-defense	Post-war standing menace	Forcible mediation of a protracted civil war	Self-determination/secession	Counter-intervention	Humanitarian intervention	Benign imperialism
Mill's examples	Sixteenth-Century Protestant–Catholic Wars; Nineteenth-century "Liberals vs. Despots"	Napoleon; Reconstruction in U.S. South	Portugal, mid-nineteenth century	Greece from Turkey, 1821–31; Belgium from Holland, 1830–31; Hungary from Austria, 1848–49	Against Russia's intervention in Austria-Hungary, 1848–49	Mill's "severities repugnant to humanity"	Oude, India (now Awadh)
Walzer's and other contemporary examples considered	Cold war: Brezhnev and Reagan Doctrines	Occupations of Germany and Japan	UN peace enforcement and peacekeeping	Hungary, 1956; Kosovo; East Timor; South Ossetia	Vietnam	Cuba, 1898; India-Bangladesh, 1971; Tanzania-Uganda, 1978–79	Chapter VII mandates in peace enforcement

This kind of logic led Sir Nicholas Throckmorton, the ambassador of Elizabeth I to France, to advocate intervention in support of fellow Protestants by warning: "Now when the general design is to exterminate all nations dissenting with them in religion . . . what will become of us, when the like professors [co-religionists] with us shall be destroyed in Flanders and France."[23] It also resonates in twentieth-century cold war logic, and neatly matches the rhetoric of the Brezhnev Doctrine and the Reagan Doctrine. The latter pledged, "We must not break faith with those who are risking their lives . . . on every continent from Afghanistan to Nicaragua . . . to defy Soviet aggression and secure rights which have been ours since birth. Support for freedom fighters is self-defense." Reagan thus adds "rollback" to the original "containment" of the Truman Doctrine.[24]

In practice, the early cold war witnessed covert actions by the United States in Albania and China, and Soviet efforts to control local communist parties in Europe and elsewhere. Reagan and Brezhnev practiced their doctrines in Nicaragua and Czechoslovakia, respectively.[25] But the exceptions to cold war interventionism were at least as important. These included the West's support for Tito's Yugoslavia and the East's support for Third World nationalists, such as India's Nehru and Egypt's Nasser, not to speak of the effective combination of East-West détente with the "triangulation" effort devised by the Nixon administration to exploit the Chinese split from the Soviets in the 1970s.

Even during the polarizing religious wars of the sixteenth and seventeenth centuries, we should recall the lesson that Queen Elizabeth learned from the disastrous 1562–63 armed expedition to "Newhaven" (today Le Havre, in Normandy, France). In 1559 she had successfully intervened to roll back the Catholic threat in Scotland by sending troops to assist the more powerful faction of Scottish Protestant lords who were struggling against a regime sustained by French forces. When her more radical advisers pressed her to do the same in France, she reluctantly agreed to intervene in support of the French Protestant nobles in Normandy, only to see them defect to a better deal with their own monarch.[26] She thus learned to limit intervention to matters and territories of vital necessity (Scotland and preserving the independence of the Low Countries), and to armed action only with the support of strong local allies. She also developed a policy of alternately aligning with Spain and France, and successfully played them against each other.[27] A half century later Cardinal Richelieu wisely aligned with the Protestant principalities that would support France against the Holy Roman Empire and Catholic Spain, which were its greatest threats.

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Thus, consistent as the logic of ideology-based intervention in internationalized civil war is, probing the actual examples suggests that Mill should want to adopt a bias toward more essential conceptions of "legitimate self-defense." These kinds of interventions should be limited to vital national security and to cases where strong overseas allies can reduce the costs.

Second, Mill argues that following a successful defensive war against an aggressive despot, the liberal victor, rather than halting his armed forces at the restored border, can intervene to remove a "perpetual" or at least standing "menace" to peace, whether a person or a regime.[28] Mill's implicit reference was the sending of Napoleon to Elba, off the Italian coast, and later, after Waterloo and as if to prove the point, to St. Helena, far in the South Atlantic. Reconstruction in the U.S. South might also be seen to draw inspiration from these considerations. Indeed, in that case Mill later explicitly noted the need not just to remove Jefferson Davis from office but to "break altogether the power of the slaveholding caste" so that they did not "remain masters of the State legislatures [where] they will be able effectually to nullify a great part of the result which have been so dearly bought by the blood of the Free States."[29]

In modern times the relevant reference is "de-Nazification" in Germany following World War II and the breaking up of the imperial principle, the militarist faction, and the *zaibatsu* in Japan. The Allies clearly had a right to end German and Japanese aggression and drive their armies back to their borders. But could they reform Germany and Japan? And, if they could, what, asks Walzer, should the victors and vanquished pay to guarantee reliable security?[30] When should the victors relinquish the goals of unconditional surrender and pacific reconstruction in order to avoid further death among the vanquished, as well as the (soon to be) victors, that a campaign for total conquest will inevitably cost?

Walzer sharpens this dilemma, without (to my mind) fully resolving it. Should a negotiated arrangement have been struck with Nazi Germany, had it been willing to surrender to the Western Allies? The special nature of the evil of Nazism makes it apparent that this was not a deal Walzer would have wanted made, even to save the lives of many Allied soldiers and noncombatant Germans that the invasion of the German homeland consumed. Walzer does not address directly the Millian argument that an aggressive leader or regime could be removed by outside forces. He would have preferred a German revolution that toppled Nazism, with which the Allies could then have made peace. But he also argues that the Nazi leaders should have been tried and punished, and that, lacking a German

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revolution, the occupation of Germany was necessary to achieve this. For Walzer, the Nuremberg trials should have been an act of "collective abhorrence" for their crimes, rather than an act to prevent future aggression.[31] But that might have limited the occupation of Germany solely to conducting the trials.

An even harder case is Japan. Walzer argues that Japan's government should have been accommodated and that therefore Hiroshima and Nagasaki were two bombs too many (especially coming on top of the also unjustified firebombing of Tokyo and other Japanese cities, which violated *jus in bello* restrictions on attacking noncombatants). Unfortunately, Walzer's preference for a negotiated settlement would have required compromise from both the Japanese and the Americans. The United States failed to introduce flexibility into the meaning of the Potsdam terms early enough. But whereas Walzer sees the two bombs as too many, in fact they were barely adequate for their purpose, if their purpose was the surrender of Japan on terms likely to make a lasting peace. Ultimately, the victors conceded the emperor, but they demanded the authority to reconstruct Japan. It is not at all clear that the War Cabinet would have accepted this deal without the shock of the two bombs, and it has been argued that the threat of even more atomic bombs helped turn the tide toward a negotiated surrender.[32]

Leaving Japan in the hands of the same militarists who launched the conquest of Asia would indeed have been unwise. Clearly, negotiation should have been tried earlier. But were there also other, less unjust, means of coercing the Japanese War Cabinet into a sufficiently complete surrender that would have permitted political reconstruction? Would a demonstration detonation have worked? What about a protracted naval blockade that prohibited Japan access to any goods other than food and medicine necessary for survival? Neither of these looked promising at the time (the looming competition with the Soviet Union also colored U.S. estimations of how to end the war); but in retrospect both seem to have been worth further exploration.

Mill's third exception, and one pertinent for today's debates on multilateral mediation and peacekeeping,[33] covers a "protracted civil war, in which the contending parties are so equally balanced that there is no probability of a speedy issue; or if there is, the victorious side cannot hope to keep down the vanquished but by severities repugnant to humanity, and injurious to the permanent welfare of the country."[34] Here, Mill argues that some civil wars become so protracted and so seemingly irresolvable by local struggle that a common sense of humanity and sympathy for the suffering of the noncombatant population calls for an

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outside intervention to halt the fighting in order to see if some negotiated solution might be achieved under the aegis of foreign arms. Specifically, he cites the at least partial success of outsiders in calling a halt to and helping settle the Greek rebellion against the Ottoman Empire and the protracted mid-nineteenth-century Portuguese civil war.

In such circumstances outsiders can call for separation or reconciliation. In some cases, two peoples contending a single territory have been forced to separate and partition it. Greece was thus separated from Turkey. In 1830, Belgium was separated from Holland following the forceful mediation of two liberal statesmen, one British, one French—Palmerston and Guizot.[35] In others, two factions struggling to control and reform a single state, each in order to fulfill their own visions, have been forced to reconcile and share the territory.

Impartial mediation imposed power-sharing reconciliation without separation—the "equitable terms of compromise" insisted upon by Mill—on the Portuguese factions. This produced two generations of peace among the contesting factions under the rules of King Pedro (1853–61) and King Luis (1861–69). H. V. Livermore, one of the leading historians of Portugal, described the political scene in the first half of the century during the reign of Queen Maria as follows: "There were now three main currents of opinion in Portugal: absolutist, moderate and radical. Each had its constitutional and institutional preferences: the absolutists stood for no written constitution and the traditional *cortes*, summoned and not elected; the Chartist moderates for an *octroye* charter and a parliament of two houses; the Septembrist radicals for the constitution of 1822 and a *cortes* of a single chamber."[36] Britain intervened in 1827 with a naval force, but only (Prime Minister Canning claimed) for the sake of "nonintervention," in order to deter a right-wing intervention supported from Spain.

The intervention that Mill appears to have had in mind took place in 1846. Portuguese politics by then had split between the last two groups of liberals, the Chartists and the Septembrists—one "moderate" and pro-monarchical, the other "radical" and pro-constitutionalist. In the 1830s, Britain supported Queen Maria and her monarchist ministers. When the Septembrist constitutionalists took up arms, Palmerston (then foreign secretary) was cross-pressured between his ideological preference for the constitutionalists and Britain's established relationship with the monarchists. When France and Spain also agitated for intervention (on various sides), Palmerston sent Colonel Wylde as a special envoy to exercise what Palmerston called "a perspective of force" that involved

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pressuring them both and eventually led to a joint Anglo-Spanish armed force that cornered the recalcitrant Septembrists in Oporto. Palmerston required the queen to restore the constitution and civil liberties and deal with the constitutionalist rebels indulgently, and the rebels to lay down their arms.[37] It looked "ill at the commencement," Mill commented, but "it could be justified by the event . . . a really healing measure."[38]

Nonetheless, it would be wrong to credit the 1846 intervention with either so much of, or so unequivocal, a benefit. The intervention may have been necessary, but it was far from sufficient to launch Portugal on a path of genuine peacebuilding. The decisive impetus for "healing measures" was less the compromise of 1846 than the (unpredictable) reform led by the wise and industrious King Pedro, who (a child in 1846) succeeded his mother in 1853. During his short reign (he died of cholera in 1861), Pedro helped construct a political center that served as the foundation for more extensive administrative reforms and the launching pad for an ambitious program of road and rail construction that began the economic modernization of the countryside.[39] Still, beneficent as that outcome was, England remained a constant presence, promoting the interests of British merchants in Portugal, bullying the Portuguese overseas when Britain's trade and colonial interests required interference, and, overall, limiting the effective sovereignty of Portugal. Better forcible mediations thus seem to require peacebuilding follow-through, focused on development and sovereignty.

Exceptions that Disregard

While some external considerations thus call for *overriding* nonintervention, there are other injustices that justify *disregarding* the prohibition against intervention. Sometimes the national self-determination that nonintervention is designed to protect is so clearly undermined by the domestic oppression and suffering that the principle should simply be disregarded. In these circumstances, the local government in effect loses its claim to rule as the representative of a singular national authority. The reasons for nonintervention, Mill then claims, should be disregarded because they operate in "an opposite way," "the reasons themselves do not exist," and intervention "does not disturb the balance of forces on which the permanent maintenance of freedom in a country depends."[40]

Building on Mill's essay, Walzer now reengages the Millian argument and discusses three cases where an intervention serves the underlying purposes

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that nonintervention was designed to uphold.[41] The first is when too many nations contest one piece of territory. When an imperial government opposes the independence of a subordinate nation or when there are two distinct peoples, one attempting to crush the other, then *national* self-determination cannot be a reason to shun intervention. What is missing is the "one" nation. Here foreigners can intervene to help the liberation of the oppressed people, once that people has demonstrated through its own "arduous struggle" that it truly is another nation. In such cases Mill adopts the principle of decolonialization, allowing a people to form its own state and shape its own destiny. One model of this might be the American Revolution against Britain; another in Mill's time was the 1848–49 Hungarian rebellion against Austria.[42] In another Hungarian case that Walzer considers, Hungary's 1956 rebellion against the Soviet empire, he warns that proportionality considerations also must be taken into account and that they rightly deterred effective assistance that might have escalated to World War Three.[43] Statespersons have long been hard-pressed to identify reliably when a people is truly a people and to recognize consistently what steps are needed to prove a nation's fitness for independence and justify foreign assistance. The many anticolonial movements in Africa and Asia and the secession of East Timor from Indonesia and Kosovo from Serbia seem to fit well into this category, but each also illustrates how much considerations of proportionality and necessity enter into the judgment of whether the particular secession warrants international support.

The second instance in which the principle against intervention should be disregarded is counter-intervention in a civil war. Generally, a civil war should be left to the combatants. When conflicting factions of one people are struggling to define what sort of society and government should rule, only *that struggle* should decide the outcomes, not foreigners. But when an external power intervenes on behalf of one of the participants in a civil war, then another foreign power can, in Mill's words, "re-dress the balance"—that is, counter-intervene to balance the first intervention. This second intervention serves the purposes of self-determination, which the first intervention sought to undermine. Even if, Mill argued, the Hungarian rebellion was not clearly a national rebellion against "a foreign yoke," it was certainly the case that Russia should not have intervened to assist Austria in its suppression. By doing so, Russia gave others a right to counter-intervene: if "Russia gave assistance to the wrong side, England would aid the right."[44] Following Mill, Walzer explores the Hungarian case and then extends the discussion into the Vietnam interventions of the 1960s (the Americans and North Vietnamese in

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South Vietnam). Here he bolsters Mill's conclusions on the importance of ensuring that foreign intervention or counter-intervention does not overwhelm the local struggle, the only legitimate determinant of who should govern.[45]

Third, one can intervene for humanitarian purposes—to halt what appears to be a gross violation of the rights to survival of a population. When we see a pattern of massacres, the development of a campaign of genocide, the institutionalization of slavery—violations that are so horrendous that in the classical phrase repeated by Walzer they "shock the moral conscience of mankind"—one has good ground to question whether there is any national connection between the population and the state that is so brutally oppressing it. In discussing protracted civil wars in his "Non-Intervention" essay, Mill has already given "severities repugnant to humanity" as closely related humanitarian reasons to forcibly mediate a civil war. And humanitarian motives also arise in the next case for intervention, against the uncivilized "barbarians." But, lacking the advantages of a twentieth-century perspective, Mill does not directly consider the case of an established, civilized government turning to massacre its own subjects or appear to understand how barbaric the thoroughly civilized can be.

Walzer, adding to Mill, argues that humanitarian intervention is different from intervening in a civil war, which also involves much suffering, for here the government may be in altogether too much control. But Walzer makes a good case that a disregarding logic should apply. Outsiders can intervene, but the intervener should have a morally defensible motive and share the purpose of ending the slaughter and establishing a self-determining people. Furthermore, interveners should act only as a "last resort," after exploring peaceful resolution. They should then act only when it is clear that they will save more lives than the intervention itself will almost inevitably wind up costing, and even then with minimum necessary force. Humanitarian motives have often been exploited, as Walzer shows they were in the U.S. intervention in Cuba in 1898. But even though often abused, those motives can apply in a reasonable case. Such was the Indian invasion of East Pakistan in 1971, designed in part to save the people of what became Bangladesh from the massacre that was being inflicted upon them by their own government (in West Pakistan). Despite India's mixed motives, this was a case of legitimate humanitarian intervention.[46] In more recent times, intervention in Rwanda in 1994 could have been justified in these terms.

Today, Mill's most controversial case of disregard would be benign colonialism. His principles of nonintervention only hold among "civilized" nations.

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"Uncivilized" peoples, among whom Mill dumps most of Africa and Asia, are not fit for the principle of nonintervention.[47] Like "Oude" (now Awadh, in India), which he references, they suffer four debilitating infirmities—despotism, anarchy, amoral presentism, and familism—that make them incapable of self-determination. The people are imposed upon by a "despot . . . so oppressive and extortionate as to devastate the country." Despotism long endured has produced anarchy characterized by "such a state of nerveless imbecility that everyone subject to their will, who had not the means of defending himself by his own armed followers, was the prey of anybody who had a band of ruffians in his pay."[48] The people as a result deteriorate into amoral presentism in which present gratification overwhelms the future and no contracts can be relied upon. Moral duties extend no further than the family; national or civic identity is altogether absent.

No civilized government, Mill adds, can maintain a stable relationship with these uncivilized societies. "In the first place, the rules of ordinary morality imply reciprocity. But barbarians will not reciprocate." And, second, these "nations have not got beyond the period during which it is likely to be for their benefit that they should be conquered and held in subjection by foreigners."[49] In these circumstances, Mill claims, the best that can happen for the population is a benign colonialism, such as he recommended during the annexation of Awadh in 1857. Normal interstate relations cannot be maintained in such an anarchic and lawless environment. The most a well-intentioned foreigner owes these peoples is paternal care and education.

It is important to note that Mill advocates neither exploitation nor racialist domination. Indeed, as Mark Tunick has to my mind persuasively argued, the imperialism Mill recommends is in many respects "tolerant," neither totalitarian nor racist.[50] Instead, it is grounded in the principles of human dignity that also ground his view of just relations among "civilized" states. Significantly, Mill applies the same reasoning to once primitive northern Europeans who benefited from the imperial rule imposed by civilized Romans. Unlike the paternalism of his father, James Mill, and other imperial liberals, Mill's educative imperialism does not require conversion to Christianity, nor does it call for the adoption of English culture—only the cultivation of the ethos of the rule of law and the material sciences that are needed for economic progress. The duties of paternal care, moreover, are real, precluding oppression and exploitation and requiring care and education designed to one day outfit the colonized people for independent national existence.

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Nonetheless, the argument also rests on what appear to be wildly distorted readings of the history and culture of Africa and Asia. Ancient cultures embodying a deep sense of social obligation made nonsense of presentism and familism.[51] But anarchy, corruption, and despotic oppression did afflict many of the peoples in these regions. Two current experts, Rudrangshu Mukherjee and T. R. Metcalf, agree with Mill's indictment of the nawabs (rulers) of Awadh, who "abandoned the attempt to govern . . . and amused themselves with wine, women and poetry."[52] Sources contemporary to Mill, including the Treaty of 1837, negotiated but never ratified between Awadh and Britain, warned that if "gross and systematic oppression, anarchy and misrule" continued, the nawab's land would be seized.[53]

More significantly, while Mill's treatment does convey Britain's responsibility for some of the misrule and consequent responsibility (in Mill's judgment) to redress it, Mill does not seem able to parcel out the responsibilities of the shared causation he does acknowledge, including the responsibility not to contribute to the weakening that later justifies imperial rule.[54] Awadh's condition was very much a product of the irresponsible dependent condition to which the nawabs had been reduced by the Treaty of 1801. That treaty established the British protectorate, for which Awadh paid a heavy subsidy to the East India Company and guaranteed unfettered access for British merchants to Awadh's markets. The nawabs soon found themselves without local authority (usurped by the British resident ambassador), incapable of fostering native industry, and responsible for seventy-six lacs of rupees ($3.8 million in 1856 dollars) in annual tribute to Britain. If Awadh's misrule was partly occasioned by the harms inflicted by British rule, Britain may have had the obligation to correct it that Mill notes, but it also had an obligation not to (partly) cause it in the first place and use the misrule as a justification for annexation.[55]

Mill thus admits that the anarchy of Awadh was partly "morally accountable" to British rule, and that this was known to be the case "by men who knew it well."[56] But what he does not mention is that *he* was the responsible official under the Court of Directors of the East India Company charged with the oversight of the company's relations with the Indian princely states including Awadh. Indeed, Awadh was his first (beginning in 1828) and continuing assignment in the London headquarters of the East India Company.[57]

Shorn of its cultural "Orientalism," Mill's argument for trusteeship addresses one serious gap in strategies of humanitarian assistance: the devastations that cannot be readily redressed by a quick in-and-out intervention designed to liberate

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an oppressed people from the clutches of foreign oppression or a domestic genocide.[58] Nonetheless, interveners have a special obligation to consider how one can prevent benign trusteeship from becoming malign imperialism, particularly when one recalls the flowery words and humanitarian intentions that accompanied the conquests of Asia and Africa. Just how far are the humanitarian Anti-Slavery Campaign and the Aborigine Rights Protection Society from the exploitation of King Leopold's Congo and Joseph Conrad's *Heart of Darkness*?

Conclusion

John Stuart Mill sketched a powerful moral geography of when and when not to intervene, advancing seven circumstances that would favor overriding or disregarding nonintervention. Michael Walzer limited the circumstances to three, which he deepened and developed. Their arguments for ethical intervention are ones that no international moralist who subscribes to principles of beneficence, self-determination, and national security can neglect.

Compared to Walzer, who supports intervention in very limited circumstances, Mill makes a reasonable case that nonintervention should be overridden both to prevent the recurrence of aggressive war and to end protracted civil wars. Moreover, from a twenty-first-century perspective, we can add that the interdependencies of globalization seem to make these two reasons even more persuasive than they were in the nineteenth century, if only because we both see and experience the effects of ever more lethal wars. But the more extensive list of examples Mill invokes reveals more complexity than he recounts, and in each case that complexity argues against the interventionist conclusions he reaches. Internationalized civil wars tend to display less ideological consistency than would justify ideological solidarity. Reconstructive occupations raise material and moral costs that may not be worth incurring for a marginal gain in long-run security. Successful coercive mediation in protracted civil wars depends both on the local balance of forces and well-designed peace-building operations. National liberations, counter-interventions, and humanitarian interventions also raise problems and require clearer doctrines than we now have. The case for imperial annexation is made problematic because local anarchy is rooted in ills inflicted as much by previous informal interference as by local "barbarism."

In short, interventionist arguments should go beyond the three paradigmatic cases Walzer explores in *Just and Unjust Wars*. But while they can draw on Mill's

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"Non-Intervention," they need to offer a more convincing set of criteria for when such interventions are likely to do more good than harm.

NOTES

[1] Citations to the 1859 "Non-Intervention" essay are to John Stuart Mill, "A Few Words on Non-Intervention," in *Essays on Politics and Culture*, ed. Gertrude Himmelfarb (Gloucester: Peter Smith, 1973), pp. 368–84. Citations to Walzer (1977) are to Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977). I have also found helpful in comparing the two Walzer's "Mill's 'A Few Words on Non-Intervention': A Commentary," in Nadia Urbinati and Alex Zakaras, eds., *J. S. Mill's Political Thought* (Cambridge: Cambridge University Press, 2007), pp. 347–56.

[2] In a work now in progress, I will explore the possibility that the deeper interdependence embodied in globalization (1) requires a stronger commitment to intervention in order to prevent or halt crimes against humanity; (2) prioritizes multilateral authorization; and (3) fosters a greater capacity in the United Nations to halt protracted civil wars.

[3] Lassa Oppenheim, *International Law* (London: Longmans, 1920) vol. I, p. 221. Article 2(4) of the UN Charter prohibits the use of force in general and GA Res 2131 (XX) (1965) provides partial evidence for customary law norms when it outlines potential violations and declares the "Inadmissibility of Intervention into the Domestic Affairs of States." For the complicated legal record, see Lori Damrosch et al., *International Law: Cases and Materials*, 4th ed. (St. Paul, Minn.: West, 2001), chap. 12.

[4] As surveys of a large literature, I have found especially valuable R. J. Vincent, *Nonintervention and International Order* (Princeton, N.J.: Princeton University Press, 1974); Charles R. Beitz, *Political Theory and International Relations* (Princeton, N.J.: Princeton University Press, 1979); Stanley Hoffmann, *Duties Beyond Borders: On the Limits and Possibilities of Ethical International Politics* (Syracuse, N.Y.: Syracuse University Press, 1981); Anthony Ellis, "Utilitarianism and International Ethics," in Terry Nardin and David Mapel, eds., *Traditions of International Ethics* (Cambridge: Cambridge University Press, 1992), pp. 158–79; Fernando Teson, *Humanitarian Intervention: An Inquiry Into Law and Morality* (Irvington-On-Hudson, N.Y.: Transnational Publishers, 1997); Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (New York: Oxford University Press, 2000); Simon Chesterman, *Just War or Just Peace? Humanitarian Intervention and International Law* (New York: Oxford University Press, 2003); Deen Chatterjee and Don Scheid, eds., *Ethics and Foreign Intervention* (Cambridge: Cambridge University Press, 2003); J. L. Holzgrefe and Robert Keohane, eds., *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge: Cambridge University Press, 2003); Martha Finnemore, *The Purpose of Intervention: Changing Beliefs about the Use of Force* (Ithaca, N.Y.: Cornell University Press, 2003); Jennifer Welsh, ed., *Humanitarian Intervention and International Relations* (New York: Oxford University Press, 2006); Thomas Weiss, *Humanitarian Intervention* (Cambridge: Polity, 2007); and Gary Bass, *Freedom's Battle: The Origins of Humanitarian Intervention* (New York: Knopf, 2008).

[5] Hans Morgenthau famously states: "International politics, like all politics, is a struggle for power," in *Politics among Nations* (New York: Knopf, 1967), p. 25, and Michael Walzer begins *Just and Unjust Wars* with a chapter titled "Against 'Realism.'" For one discussion of the varieties of realist, liberal, and socialist philosophy of world politics, see my *Ways of War and Peace* (New York: W. W. Norton, 1997).

[6] See, e.g., the influential works of David Luban, "Just War and Human Rights," *Philosophy & Public Affairs* 9, no. 1 (Winter 1980), pp. 160–81; and Hadley Arkes, *First Things: An Inquiry into the First Principles of Morals and Justice* (Princeton, N.J.: Princeton University Press, 1986). Both Luban and Arkes are cosmopolitans in this sense, but their conceptions of which rights are fundamental differ profoundly, the first tending toward social democratic and the second libertarian in orientation, with correspondingly large differences in judgment on interventions.

[7] Pushpin was a mindless game in which boys stuck pins in each other's hats and then took turns knocking them off. Good discussions of the wider aspects of Mill's ethical theory are in Alan Ryan, *J. S. Mill* (London: Routledge and Kegan Paul, 1975); and Nicholas Capaldi, *John Stuart Mill: A Biography* (Cambridge: Cambridge University Press, 2004), pp. 249–65.

[8] See his *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), and *Thick and Thin: Moral Argument at Home and Abroad* (Notre Dame, Ind.: University of Notre Dame Press, 1994), for his more general reflections on justice—domestic and international.

[9] For analysis of Mill's politics, see Dennis Thompson, *John Stuart Mill and Representative Government* (Princeton, N.J.: Princeton University Press, 1976); for Walzer, see his *Thick and Thin*.

[10] Mill, "Non-Intervention," p. 376.

[11] Kant's fifth preliminary article of Perpetual Peace prohibits forcible interference in "the constitution and government of another state," for to do so would violate "the right of people dependent on no other and only struggling with its internal illness." Immanuel Kant, "Perpetual Peace," in *Kant's Political Writings*, ed. Hans Reiss, trans. H. B. Nisbet (Cambridge: Cambridge University Press, 1970), pp. 93–130. For

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comment, see also Sankar Muthu, *Enlightenment Against Empire* (Princeton, N.J.: Princeton University Press, 2003), chaps. 4, 5.

[12] Mill, "Non-Intervention," p. 381; emphasis added. The voluntarist and deliberative element in Mill's conception of political liberty is captured in Nadia Urbinati, "The Many Heads of the Hydra," in Urbinati and Zakaras, eds., *J. S. Mill's Political Thought*, pp. 66–97.

[13] Mill, "Non-Intervention," p. 381; emphasis added.

[14] Ibid., p. 382.

[15] Ibid.

[16] Ibid., p. 380.

[17] Michael Walzer, "The Moral Standing of States," in Charles R. Beitz et al., eds., *International Ethics* (Princeton, N.J.: Princeton University Press, 1985), p. 221, n.7.

[18] For discussion, see Jennifer Welsh, "Taking Consequences Seriously: Objections to Humanitarian Intervention," in Welsh, ed., *Humanitarian Intervention*, pp. 56–68.

[19] "Agreements must be upheld." See Terry Nardin, *Law, Morality, and the Relations of States* (Princeton, N.J.: Princeton University Press, 1983); and Thomas Franck, *Fairness in International Law and Institutions* (Oxford: Clarendon Press, 1995).

[20] Mill, "Non-Intervention," p. 383.

[21] Ibid., p. 382.

[22] Ibid.

[23] Quoted from Lord Burghley's State Papers in Wallace MacCaffrey, "The Newhaven Expedition: 1562–1563," *Historical Journal* 40, no. 1 (1997), p. 2. For an insightful and wide-ranging analysis of religious internationalism in this period, see John Owen, "When Do Ideologies Produce Alliances?" *International Studies Quarterly* 49 (2005), pp. 73–99.

[24] Ronald Reagan, State of the Union Address, 1985. President Truman's doctrine promising to defend free peoples from external or internal aggression was presented to a joint session of Congress in justification of the assistance he proposed for Greece and Turkey in March 1947. President Brezhnev presented his doctrine in a speech at the Fifth Congress of the Polish Workers' Party in November 1968, following the intervention against the Czechoslovak Prague Spring. Brezhnev proclaimed: "When forces that are hostile to socialism try to turn the development of some socialist country towards capitalism, it becomes not only a problem of the country concerned, but a common problem and concern of all socialist countries."

[25] See Tim Weiner, *Legacy of Ashes: The History of the CIA* (New York: Doubleday, 2007), esp. pp. 45–46, 58–61; and for a general comparison, the classic by Samuel Huntington and Zbigniew Brzezinski, *Political Power: USA/USSR* (New York: Viking, 1961).

[26] MacCaffrey, "The Newhaven Expedition," p. 19.

[27] See R. B. Wernham, *Before the Armada* (London: Cape, 1966); and G. D. Ramsay, *The Reign of Elizabeth I*, ed. Christopher Haigh (London: Macmillan, 1984), who describe dual balancing, against both foreign and domestic threats.

[28] Mill, "Non-Intervention," p. 383.

[29] See Eric Foner, *Reconstruction: America's Unfinished Revolution* (New York: Harper, 2002), for background and Mill's letter to Parke Goodwin quoted in Michael St. John Packe, *The Life of John Stuart Mill* (New York: Macmillan, 1954), p. 427.

[30] Walzer, *Just and Unjust Wars*, pp. 111–24.

[31] Ibid., p. 117. See Gary J. Bass, "Jus Post Bellum," *Philosophy & Public Affairs* 32, no. 3 (2004), who explores the justice of these kinds of settlements, but limits his arguments to the demonstrably necessary case of post-genocide.

[32] Ian Buruma surveys the debate on the issue in "The War over the Bomb," *New York Review of Books*, September 21, 1995, pp. 26–34. Tsuyoshi Hasegawa, *Racing the Enemy: Stalin, Truman and the Surrender of Japan* (Cambridge, Mass.: Harvard University Press, 2005), pp. 205ff., discusses the difficulty of persuading the Japanese Cabinet to limit negotiations to the preservation of the emperor, even after the atomic bombs on Hiroshima and Nagasaki had been dropped.

[33] For a discussion of the circumstances favoring successful peacekeeping and peace building in a civil war context, see Michael Doyle and Nicholas Sambanis, *Making War and Building Peace: United Nations Peace Operations* (Princeton, N.J.: Princeton University Press, 2006), and the large literature we cite. For discussions of the ethical issues raised in reconstruction, see Stefano Recchia, "Just and Unjust Postwar Reconstruction," pp. 165–88, and related articles in the special issue of *Ethics & International Affairs* 23, no. 2 (2009), on the Responsibility to Rebuild.

[34] Mill, "Non-Intervention," p. 380.

[35] Bass, *Freedom's Battle*, chaps. 4–12, treats this conflict under the rubric of humanitarian concern. It fits there, but it was also a war for secession, as noted below. Conflicts typically overlap: great powers forcibly mediated a protracted civil war with large casualties and promoted the secession of Greece from an established empire, Ottoman Turkey.

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[36] H. V. Livermore, *A New History of Portugal*, 2nd ed. (Cambridge: Cambridge University Press, 1976), p. 274.
[37] See Jasper Ridley, *Lord Palmerston* (London: Constable, 1970), pp. 317–20; and W. Smith, *Anglo-Portuguese Relations, 1851–1861* (Lisboa: Centro de Estudios Historicos Ultramarinos, 1970), p. 16.
[38] Mill, "Non-Intervention," p. 381.
[39] Livermore, *New History of Portugal*, pp. 288–90.
[40] Mill, "Non-Intervention," p. 383.
[41] Walzer, *Just and Unjust Wars*, chap. 6.
[42] Mill, "Non-Intervention," p. 383.
[43] Walzer, *Just and Unjust Wars*, p. 95.
[44] Mill, "Non-Intervention," p. 383. For a modern interpretation stressing Hungary's success in civil reform despite its failure in acquiring independence, see Domokos Kosáry, *Hungary and International Politics in 1848–1849*, trans. Tim Wilkinson (Boulder, Colo.: Atlantic Research and Publications, 2003).
[45] Walzer, *Just and Unjust Wars*, pp. 97–99.
[46] Ibid., pp. 101–08.
[47] Mill, however, conceives of many circumstances in which analogous forms of paternalism or benign despotism can be justified, including over children and domestically when populations are not fit for self-government; see discussion of various forms of despotism in Nadia Urbinati, "The Many Heads of the Hydra" (unpublished paper, 2007); and Mark Tunick, "Tolerant Imperialism: John Stuart Mill's Defense of British Rule in India," *Review of Politics* 68, no. 4 (2006), pp. 586–611.
[48] Mill, "Non-Intervention," pp. 377, 379.
[49] Ibid., p. 377.
[50] Tunick, "Tolerant Imperialism"; and see Stephen Holmes, "Making Sense of Liberal Imperialism," in Urbinati and Zakaras, eds., *J. S. Mill's Political Thought*, pp. 319–46, for related arguments.
[51] Jennifer Pitts points out that J. S. Mill, like his father, James Mill, stressed the moral and intellectual failings of the "barbarous" peoples and lumped their various social structures, from nomadic tribes to feudal and bureaucratic empires, into one category of barbarism. In doing so, the Mills broke with earlier liberal traditions that posited a common rationality and varying societal and political regimes, as did Bentham and such philosophers as Adam Smith. See Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton, N.J.: Princeton University Press, 2003), chap. 5, passim; and for Smith, Doyle, *Ways of War and Peace*, chap. 7.
[52] Rudrangshu Mukherjee, *Awadh in Revolt, 1857–1858: A Study of Popular Resistance* (Delhi: Oxford University Press, 1984), quoting Metcalf, p. 33.
[53] Lt. Col. C. E. Luard, "The Indian States: 1818–1857," in H. H. Dodwell, ed., *The Cambridge History of India*, vol. 5 (Delhi: S. Chand, 1987), chap. 31.
[54] Mill, "Non-Intervention," p. 379.
[55] See Karl Marx, "The Annexation of Oude," *New York Daily Tribune*, May 28, 1858.
[56] Mill, "Non-Intervention," p. 379.
[57] For background on Mill's career in this connection, see Lynn Zastoupil, *John Stuart Mill and India* (Palo Alto, Calif.: Stanford University Press, 1994), p. 87.
[58] In "The Politics of Rescue," *Dissent* (Winter 1995), Walzer discusses the challenges of interventions from which there is no quick exit.

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