

# THE PROPRIETIES OF MILITARY INTERVENTION

by

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**I**n the wake of the American involvement in Vietnam, the term "intervention" has acquired a distinctly pejorative meaning. Recent events in Iran and Afghanistan appear to have weakened somewhat the strength of isolationist sentiments generated by the Vietnam debacle, but the fear of an excessively assertive American foreign policy remains strong, especially among elite groups. Indeed, if military intervention in general—the use of the military instrument for the purpose of interfering in the affairs of another sovereign state—is seen as presumptively wrong, this negative attitude is especially pronounced with regard to intervention in revolutionary wars, which conjure the image of a fight against oppression and injustice, a struggle that should be allowed to play itself out to its victorious conclusion.

The presumption against intervention is supported by some of the most basic principles of international law—the principle of the equality of states and the right of self-determination of peoples. These principles have been enshrined in the charters of various regional organizations as well as in the Charter of the United Nations and have been reaffirmed by these organizations many times. The inadmissibility under international law of unilateral military action is further strengthened by the prohibition of recourse to armed coercion adopted by the international legal system since the days of

the League of Nations. Thus Article 2(4) of the United Nations Charter provides: "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the purposes of the United Nations." The only exceptions to this rule are enforcement actions by the United Nations (Chapter VII of the Charter) or the use of armed force in individual or collective self-defense (Article 51).

In general practice, these proscriptions of aggressive war have proven ineffective, in part because of the great difficulty of achieving an authoritative, generally accepted, and enforceable interpretation of the concepts of "self-defense" and "aggression." Furthermore, the legal principles governing intervention in civil wars have been difficult to apply effectively because of such permissible exceptions as aid to an incumbent government that invites assistance, counter-intervention to repel the prior intervention of another foreign power, and aid to insurgents who have achieved belligerent status.<sup>1</sup> Moreover, there exists no agreement on the criteria for determining when insurgents should be granted the status of belligerents, and it is notoriously difficult to achieve a clear judicial determination on who intervened first and whether an invitation to intervene was genuine or a mere cover for the exercise of hegemonic interests.

But even if the law on the issue of intervention in a civil war were to be clear and easy to apply, that would not necessarily solve all problems, especially the moral issue which is our main concern here. The growth of international law has not been accompanied by the concomitant development of institutions able and prepared to enforce this law. Conflicts between the superpowers have prevented the achievement of a system of collective security under the UN Security Council as envisaged by the United Nations Charter. For all practical purposes, therefore, the nations of the world still find themselves in a condition resembling a state of nature, a system of politics without effective government, in which reliance upon self-help in the pursuance of vital interests and rights may remain indispensable. In order to promote world order, there should prevail a presumption in favor of acting within the confines of international law, but this presumption may have to be overridden when resort to self-help alone by the threatened country fails to ward off unacceptable dangers and disadvantages. In such circumstances, an inability or unwillingness to intervene on the part of potential rescuers can have only one result: It will benefit and further strengthen the hand of those powers aggressively determined to promote their interests in defiance of international law and world opinion and at the expense of weaker nations unable to defend themselves.

All of the great powers, at one time or another, have intervened militarily in the affairs of other states, but in the post-World War II period it has been the Soviet Union which has assumed the most dynamic imperial posture, using Marxist-Leninist ideology in order to justify its expansionist drive. In 1960, Khrushchev spoke of "the intensification of the international class struggle." Under the so-called Brezhnev Doctrine of 1968, the Soviet Union affirmed that "the norms of law, including the norms of mutual relations of the Socialist countries," had to be interpreted in "the general context of the class struggle in

the world" and that the sovereignty of its East European allies was therefore subject to "the interests of the world of Socialism, of the world revolutionary movement" as defined by the center of that movement, Moscow. Under an extended version of this doctrine announced in January 1980, the Soviet Union, proclaiming "the international solidarity of revolutionaries," in effect now asserts the right to intervene in any revolutionary situation anywhere. According to the Marxist point of view, it is said, an assessment of the rightness of an act of intervention must not ignore "the fundamental difference between the nature and goals of the foreign policy of socialism and imperialism."<sup>2</sup> In line with the principle of "socialist internationalism," the Soviet Union, Cuba, and Vietnam for some time now have practiced a policy of "assistance" to communist regimes by intervening militarily in several African countries, South Yemen, Cambodia, and, most recently, Afghanistan.

Given this situation, for a major power like the United States to adhere unwaveringly to the principle of nonintervention will not only encourage international disorder, but could mean abandoning basic moral values. As John Stuart Mill pointed out more than one hundred years ago,

The doctrine of non-intervention, to be a legitimate principle of morality, must be accepted by all governments. The despots must consent to be bound by it as well as the free states. Unless they do, the profession of it by free countries comes but to this miserable issue, that the wrong side may help the wrong, but the right must not help the right.<sup>3</sup>

It is well to remember that the nonintervention of the Western democracies in the Spanish Civil War of 1936-39 represented a crucial factor in favor of Franco's victory and helped prepare the way for World War II. America cannot and should not be the world's policeman, but we cannot be adjudged immoral in supporting free and independent nations in their endeavor to

remain so when we, and we alone, possess the means to do so. "A wealthy man who watches a poor neighbor starve to death cannot disclaim responsibility for the event; a powerful man who watches a weak neighbor being beaten to death cannot avoid being accused (if only through self-accusation) of culpability."<sup>4</sup> Further, as the case of Spain in the 1930's demonstrates, the fulfillment of the moral obligation to intervene in defense of freedom and human dignity at times may also coincide with prudential long-term national interests.

**A** revolutionary war is a form of civil strife in which a revolutionary organization employs unconventional means of armed conflict—principally guerrilla warfare, but often as well terrorist acts against government officials and civilians—in order to achieve control of the state machinery; counterinsurgency describes the strategies and tactics used by an incumbent regime to defeat a revolutionary war effort. In my view, US military intervention in such conflicts is morally justified, even if applicable provisions of international law do not clearly authorize it, when certain necessary conditions are met.

In a formal sense, my position can be regarded as the mirror image of the various versions of the Brezhnev Doctrine. The difference lies in the purposes for which intervention is sanctioned—an extension of the communist bloc in one case as against a defense of the Free World (I do not apologize for the use of this term or put it in quotation marks) and its moral values. In this brief article, I cannot of course elaborate upon my assessment of the moral differences between the two political systems involved. I will limit myself to setting forth some necessarily compressed arguments in connection with my choice of conditions for a morally justified intervention. These three conditions, all of which must be met, are as follows:

• *Condition 1: The area of conflict represents a vital geopolitical national interest for the United States; or the conflict involves the attempt by another power to impose by force an oppressive regime upon a*

*people who are unable to defend themselves without US aid; or the conflict is accompanied by systematic brutalities that outrage the conscience of mankind.*

The concept of national interest (or vital security interests) does not represent a fixed point of reference, nor does it provide the statesman with oracular guidance for action. Decisionmakers see the national interest through the fallible spectacles of their subjective judgment, and in making determinations of dangers and interests they are liable to make mistakes. The assessment of the geopolitical importance of Vietnam and Southeast Asia by American leaders from 1950 on was an example of such misjudgment. At the same time, the conduct of foreign policy cannot dispense with a yardstick that can be used to rank and evaluate the importance of allies, pieces of territory, or raw materials crucial to a country's long-term interests and well-being.

There may be differences of opinion as to whether, say, the Panama Canal is a critically important strategic waterway for the United States that has to be defended. On the other hand, many times decisionmakers will have no difficulty in reaching a unanimous judgment. For example, at the present time there appears to be general agreement that the Strait of Hormuz at the mouth of the Persian Gulf, through which must move a preponderant part of the

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Western World's oil supply, represents a vital security interest that must be protected, if necessary by force of arms. A communist-sponsored insurgency in Oman, a small country that controls the strait from the south, or a communist-directed "war of national liberation" aiming at the establishment of a communist state of Baluchistan that could choke off access from the northern side, might therefore create situations where a US (or preferably a Western) military intervention could be necessary and justified. A plea for help by the government struggling against a communist takeover will strengthen our legal and moral position in such a case, but even without an invitation intervention may be unavoidable if the geopolitical stakes are sufficiently high.

Even when an insurgency does not take place in or around a territory of crucial geopolitical importance, a moral justification may exist for military intervention. When foreign states intervene in a civil war in order to help install an oppressive regime, as did the Axis powers in Spain in the 1930's, and no collective action to enforce international law is possible, the United States (all other conditions being fulfilled) should engage itself on the side of the forces of democracy. Similar considerations dictate help to the Afghan rebels now seeking to repel the imposition of a communist regime, even though a non-communist Afghanistan may not live up to our own standards of political liberty. Whether the United States should support an incumbent government or insurgents should depend on the justice of their respective causes.

Finally, there are the situations when human rights are violated on a systematic and massive scale. Civil wars can be horribly brutal, though barbarities of genocidal proportions fortunately are the exception rather than the rule. But when the latter do occur, as happened during the secession of East Pakistan (Bangladesh) in 1971 or in the case of Idi Amin's regime in Uganda or in that of Pol Pot in Cambodia, a moral obligation arises to prevent or minimize such outrages. I agree with Michael Walzer's position that "Humanitarian intervention is

justified when it is a response (with reasonable expectations of success) to acts 'that shock the moral conscience of mankind.'"<sup>5</sup>

• *Condition 2: There must exist a reasonable probability of success achievable at costs proportionate to the importance of the end sought.*

The foreign policy of a democracy should not be based on realpolitik to the extent of ignoring all moral considerations. Our own self-respect and concern for the principles for which this "first new nation" stands require that our conduct in international affairs be infused with a moral purpose. By linking the national interest to the defense of human dignity and freedom we increase the nation's reputation as well as its influence in the world; a reputation for justice will carry pragmatic rewards. At the same time, we must beware of the dangers of a "moralizing" foreign policy that ignores considerations of prudence and power and satisfies a crusading impulse without regard to the risks and costs involved.

As concerns the moral legitimacy of American intervention in revolutionary-counterinsurgency wars, this means that a just cause is a necessary but not a sufficient condition for our involvement in such conflicts. There must exist a reasonable probability of success, for a statesman who squanders human lives and treasures for the sake of a moral gesture acts irresponsibly as well as immorally. Since policymakers have to act on incomplete information and unverifiable assumptions, there will always be dangers of failure. There are risks attached to action as well as to inaction, to using too much power and too little power. A reasonable probability of success is therefore all that can be demanded.

Among the most basic requirements of success is undoubtedly a willingness on the part of the people we seek to aid to help themselves. "Outside effort," Henry Kissinger stated following the defeat of South Vietnam in 1975, "can only supplement, but not create, local efforts and local will to resist. . . . And there is no question that popular will and social justice are, in the last

analysis, the essential underpinnings of resistance to subversion and external challenge.”<sup>6</sup> The ignominious collapse of the South Vietnamese armed forces, it must be acknowledged, was due not only to an inferiority in heavy weapons and a shortage of ammunition, but in considerable measure to lack of will and morale. The questions of how best to build military morale, how to encourage internal political cohesion in a new nation, and what kinds of military tactics to use in a counterinsurgency environment raise complex issues that are beyond the confines of this discussion and with which I have dealt in detail in another place.<sup>7</sup> Here it must suffice to mention the importance of learning the correct lessons of Vietnam and of avoiding the fallacious historicist conclusion that communist insurgencies are invincible.

Other factors increasing the likelihood of success will include the endeavor to work with, and not against, the spirit of nationalism. In the case of Vietnam, the communist side benefited from the fact that it was seen fighting for the unification of Vietnam, while the government of the South suffered from the charge that it favored the partition of the country. In the eventuality of a communist-inspired war of national liberation aiming at the political unification of the Baluchi people now split up among Pakistan, Iran, and Afghanistan, US counteraction committed to the preservation of the status quo would undoubtedly face heavy odds. If we add to that our limited knowledge of the region—it has been reported that our foreign service does not include a single Baluchi-speaking person—any recommendation of intervention on geopolitical grounds should probably be treated with great caution. For similar reasons, a recent Defense Department report has questioned US competence to assist states such as Yemen and Oman in guerrilla-type conflicts.<sup>8</sup>

The moral calculus should include not only the probability of success, but also an estimate of the risks and the price to be paid in terms of human lives, financial costs, and domestic and international political repercussions. Fear of a superpower

confrontation should not be allowed to paralyze our foreign policy, but the danger of escalation in a world armed with nuclear weapons dictates a posture of caution and prudence. Our failure in Vietnam points up the great difficulty of anticipating what the costs of intervention may ultimately come to. To be sure, a major war among the big powers was avoided, and, despite the fears of many, American relations with the two main communist powers—the Soviet Union and the People’s Republic of China—were not damaged irreparably. Yet, there can be little doubt that the first four Presidents who had to deal with the increasingly intractable Vietnam problem—Truman, Eisenhower, Kennedy, and Johnson—would have acted differently had they been able to foresee what the eventual costs of US intervention would be.

One of the important lessons of Vietnam is thus clear in principle. A good cause is not worth *any* price. But the application of this principle to concrete cases will always be difficult, and much will depend on the intrinsic importance of what the intervention in question is trying to achieve or prevent. Many critics of the American intervention in Vietnam argued at the time that the methods employed in the counterinsurgency effort were so morally reprehensible that this involvement had to be stopped regardless of political costs. In 1967, the sociologist Peter Berger noted that “All sorts of dire results might well follow a reduction or a withdrawal of the American engagement in Vietnam. Morally speaking, however, it is safe to assume that none of these could be worse than what is taking place right now.” Taking up the subject again in 1980, however, Berger acknowledged that he was no longer sure that the cruelties and crimes on the American side had been as pervasive and systematic as he had believed in 1967 (neither was he sure that the opposite was true), but he was convinced that he had been badly mistaken in estimating the consequences of the American withdrawal from Indochina. “Contrary to what most members (including myself) of the anti-war movement expected, the peoples of Indochina have, since 1975, been subjected to

suffering far worse than anything that was inflicted upon them by the United States and its allies."<sup>9</sup> In the final analysis, then, one is reduced in such cases to a balancing test that involves the weighing of relative evils, relying on the best evidence and foresight available. A very strong and just cause will tend to balance out negative elements on the side of costs and collateral side-effects, while a less clear-cut moral end should dictate greater scruples in the choice of morally dubious means.<sup>10</sup> This use of a sliding scale, I should add, is not meant to suggest that a just cause vindicates the deliberate disregard of *jus in bello* rules, i.e. resort to clearly immoral methods of warfare.

• *Condition 3: The domestic political situation must allow for the use of the military instrument.*

Just as a responsible statesman cannot disregard the objective prerequisites of success, so a decisionmaker in a democratic society must take into account the domestic political environment in which he operates. There was a time when the mass of the people were deferential to any official definition of the national interest and of the objectives of foreign policy. For good or for bad, this situation no longer holds in a modern democracy. Moreover, the experience of Korea and Vietnam demonstrates that the willingness of a democratic people to support a limited war is precarious at best, and that when such a war for limited objectives drags on for a long time it is bound to lose the backing essential for its successful pursuit. America's moralistic approach to world affairs creates special difficulties in the case of intervention in a revolutionary war on the side of an incumbent regime, for Americans are uneasy about being identified with governments striving to suppress rebellions. "We tend to suspect that any government confronted with a violent challenge to its authority is probably basically at fault and that a significant number of rebels can be mobilized only if a people has been grossly mistreated. Often we are inclined to see insurgency and juvenile delinquency in the same light, and we suspect that, as 'there are no such things as bad boys, only bad

parents,' so there are no bad people, only evil and corrupt governments."<sup>11</sup>

The mixture of compulsion and propaganda which a totalitarian regime can muster in order to extract popular support for military intervention abroad is not available to the leaders of a democratic society. American statesmen, therefore, face the extremely difficult task of providing a justification for such interventions that will convince a citizenry skeptical of official explanations and wary of foreign involvements that do not succeed fast. Yet, without such domestic support, we are bound to repeat the tragedy of Vietnam where more than 50,000 Americans (and far more South Vietnamese) died with hardly any positive accomplishments to show for it.

**A**merica today is afflicted with a serious loss of self-confidence. Important elite groups have convinced themselves and others that the exercise of American power abroad is one of the main sources of evil in the contemporary world. Whether the American people can regain a sense of pride in the values of their own society and rebuild the battered shield of American power only time will tell. One of the essential elements of such a regeneration of American strength and spirit will have to be clear moral thinking about what constitutes just military intervention abroad. The ability and willingness to use military force, in turn, may deter hostile foreign behavior and thus be an important contribution to world stability and peace.

#### NOTES

1. For a review of the literature, see D. W. Bowett, "The Interrelation of Theories of Intervention and Self-Defense," in *Law and Civil War in the Modern World*, ed. John Norton Moore (Baltimore: Johns Hopkins Press, 1974), pp. 38-50.

2. David Binder, "Brezhnev Doctrine Said to Be Extended," *The New York Times*, 10 February 1980, p. 10.

3. John Stuart Mill, "A Few Words on Non-Intervention," *Fraser's Magazine* (December 1859), reprinted in *The Vietnam War and International Law*, ed. Richard A. Falk (Princeton: Princeton Univ. Press, 1963), I, 38.

4. Irving Kristol, "Consensus and Dissent in U.S. Foreign Policy," in *The Vietnam Legacy: The War, American Society and the Future of American Foreign Policy*, ed. Anthony Lake (New York: New York Univ. Press, 1976), pp. 95-96.

5. Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), p. 107.
6. US Department of State, *Henry Kissinger Before the Japan Society*, Department of State Publication 1880, pp. 3-4.
7. Guenter Lewy, *America in Vietnam* (New York: Oxford Univ. Press, 1978).
8. Richard Burt, "U.S. Sees Need for Nuclear Arms to Repel a Soviet Attack on Iran," *The New York Times*, 2 February 1980, p. 1.

9. Peter L. Berger, "Indochina and the American Conscience," *Commentary*, 69 (February 1980), 30.
10. This point is well made by William V. O'Brien in his thoughtful work, *U.S. Military Intervention: Law and Morality*, The Washington Papers, VII (no. 68) (Beverly Hills, Calif.: Sage Publications, 1979), pp. 38-39.
11. Lucian W. Pye, *Aspects of Political Development* (Boston: Little, Brown, 1966), p. 131.

