

## Nationalism and the problem of humanitarian intervention

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In this article we argue that the issue of nationalism has been neglected in much of the academic and policy debate over humanitarian intervention to protect human rights. Underpinning much of the international relations literature, for example, is a set of taken-for-granted assumptions, which derive some of their force and salience from the grip of nationalism. Drawing on some of the more critical literature on nationalism that has emerged in recent years, we subject these assumptions to critical scrutiny, looking in particular at the Westphalian origins of the modern international order; the role of violence in the making of modern nation-states; and the problematic nature of rights of national self-determination. At the same time, a closer examination of the justifications offered in support of a number of cases of intervention shows that these still fail to break sufficiently out of a nationalist frame of reference. We conclude with a discussion of the possibilities and difficulties associated with the emergence of new cosmopolitan norms, partially expressed in the principles of the 'Responsibility to Protect' of the ICISS. Finally, we argue for a break from nationalist principles if clear norms of, and support for, humanitarian intervention are to be developed.

### Introduction

Events over the past 15 years or so have generated substantial debate over the whole question of international humanitarian intervention to protect human rights. Humanitarian intervention can, of course, mean quite different things and take rather different forms — military, economic (as in sanctions or aid) or political. Our focus here is on the first of these, on what Eric Heinze has defined as 'the use of military force by a state (or group of states) within another state for the purpose of halting or averting widespread and grave violations of fundamental human rights' (Heinze 2004, 366), or as defined by Welsh as the 'coercive interference in the internal affairs of a state, involving the use of armed force, with the purposes of addressing

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massive human rights violations or preventing widespread human suffering' (Welsh 2004, 3). These broad definitions sidestep issues about the agent(s) of intervention — either UN-sanctioned or unilateral action by states — and they do not restrict the discussion to cases where there is no consent from the state at the receiving end of the intervention.<sup>1</sup> Following both Welsh (2004) and Wheeler (2000), we prefer these more inclusive definitions that encompass a range of cases which have invited considerable debate, not only between different ideological and political camps, but sometimes also within them.

Within the international relations literature, however, there has appeared to be rather less dissent on this question than one might have expected. Both realists and followers of the English School, for example, despite their extensive differences elsewhere, often seem to concur in a broadly negative judgment, that armed intervention for humanitarian purposes is dangerous and risky. Realists, of course, have a somewhat jaundiced view of moral arguments, believing, as Morgenthau (1978) insisted, that morality has at best only a limited place in international relations and that states are, and should be, driven largely by self-interest. When states invoke ethical motives and considerations, they risk acting either unwisely or hypocritically.

Followers of the English School take a less cynical view of the international order, which they see as requiring a commitment by nation-states to a set of overarching norms.<sup>2</sup> It is this commitment which makes what they see as a society of nation-states possible in the first place. It is these norms themselves, however, which are put at risk by armed intervention, even for humanitarian reasons. These norms involve both rights and duties, requiring nation-states to recognise each other as sovereign actors, and to adhere to an essential promise and commitment not to interfere in each other's internal affairs. Once this promise is broken, chaos can result: the international order itself may be put at risk. For Robert Jackson, 'the stability of international society ... is more important, indeed far more important than minority rights and humanitarian protections in Yugoslavia or any other country — if we have to choose' (Jackson 2000, 291, quoted by Bellamy 2002, 477). While for Hedley Bull, the creation of international society has been such an important step out of what would otherwise be an anarchical situation, that we just have to assume 'that intervention in general is wrong' (quoted by Bellamy 2003, 12).

1 Holzgrefe, on the other hand, defines 'the term humanitarian military intervention — or humanitarian intervention for short ... as the threat or use of force across state borders by a state (or group of states) aimed at ending widespread and grave violations of human rights of individuals other than its own citizens [due to violence] without the permission of the state within whose territory force is applied' (Holzgrefe 2003, 18).

2 For a brief summary of the main arguments of the English School, see Linklater (2005).

What accounts for such a broadly cautious and negative approach across such otherwise opposed positions? One reason, we might suggest, has to do with a set of assumptions which need more critical scrutiny than they are often given. The first of these assumptions has to do with some of the ways in which the international order is understood, both historically and conceptually, with its appearance as an international order, in which the key, even the sole, actors to be considered are nation-states. The second has to do with the way in which new states are formed and enter that order, and more broadly with the doctrine of national self-determination. The third has to do with aspects of the relationship between human rights and the nation-state, with where rights are thought to come from, and how they are then developed and underpinned. Each of these assumptions is, we argue, by no means politically neutral but is tied up with, even produced by, a particular ideology, that of nationalism.

Nationalism is, of course, a notoriously contested, even elusive ideology.<sup>3</sup> There is substantial disagreement between nationalists as to what makes a nation in the first place, with different emphases placed on objective and subjective factors, and on issues of identity, culture, language, history, myth, memory and territory. It is also often argued that there exist very varied forms of nationalism, with fundamental differences posited between, for example, Eastern and Western, or political and cultural, or (more recently) civic and ethnic kinds. However, although there can be at times real differences in emphasis, policy and rhetoric, the boundaries between different kinds of nationalism are, as a growing number of writers have argued, so fluid as to make these distinctions unsustainable in the long run (Brown 2000; Kuzio 2002; Ozkirimli 2005, 22–25).<sup>4</sup> What is common to different forms of nationalism seems, ultimately, more important than what divides them. At root (if such a root exists),<sup>5</sup> nationalism is an ideology which imagines the world in a particular way, as made up of nations, communities in which people share a common national identity which involves a fundamental distinction between the national self and the other, variously conceived but generally in a negative light.<sup>6</sup> It is also (although it is not

3 Ozkirimli (2005, 30) prefers to use the term 'discourse', but also notes that the definition he proposes has what he calls 'strong affinities' with certain conceptions of ideology.

4 For an extended discussion of a range of ultimately unsuccessful efforts to establish secure distinctions, see also Spencer and Wollman (1998).

5 For an interesting effort to argue that there is no such 'essence', see Finlayson (1998).

6 For a thoughtful, but ultimately unconvincing, effort to argue that the other is not always or necessarily conceived of in negative terms, see Petersoo 2007. The difficulty with her argument is that the 'positive others' she proposes all seem to end up being incorporated at one level or another into the national self, as with the Scottish Highlanders who were, as she herself acknowledges, 'previously considered inferior and dangerous by Lowland Scots, [but] gradually came to embody and symbolise the whole of Scotland' (Petersoo 2007, 121). But this is not to deny the important point she makes that the scale and intensity of any negativity may vary from case to case, and that the object that is itself cast as the other may change over time.

only) a political ideology, as John Breuilly (1993) in particular has stressed, not least because nationalists generally seek political power for their nation, ideally in the form of a state for the nation.

### **Nationalism and its recent critics**

In recent years, a substantial body of work has been produced which has subjected nationalism to an extensive critique. Key figures in this discussion have been writers from diverse disciplinary and theoretical backgrounds, such as Eric Hobsbawm, Ernest Gellner, Benedict Anderson, John Breuilly and Michael Billig. There has been, of course, substantial disagreement between them, but collectively they have sought to demystify what they see as a core set of highly problematic nationalist claims. Perhaps the most fundamental of these has been any idea that nations are deeply rooted, that their origins go back far into the mists of time. On the contrary, they argue, it is nationalism which presents them as such, when in fact they are better seen as relatively recent constructs, although there is disagreement between them about exactly when nations emerged or why.

There is also the set of claims about the significance of national identity, in particular the belief shared by nationalists that national identity is superordinate, that a national identity takes precedence over other identities. As Miroslav Hroch puts it, nationalism is 'that outlook which gives an absolute priority to the values of the nation over all other values and interests' (Hroch 1993, 6). Loyalty to the nation outweighs other loyalties that we might have; divided or alternative loyalties, to class or gender for instance, imperil in some way the unity of the nation itself.

Again, the critics argue, these are claims that nationalists make in order (among other things) to persuade people to lay down their lives for the nation, to fight for it against its supposed enemies (Stern 1995). They are claims that have to be backed up by an ongoing process of what Billig (1995) has called 'flagging the nation', a whole set of institutionalised practices that make this way of thinking about identity and loyalty appear to be simple commonsense. They are claims which are, on the contrary, better understood as effects of what Anderson (1991) conceives of as the nationalist 'imagination', a particular and relatively recent way of thinking horizontally about community, of constructing in the mind connections between people who are never likely to meet or see each other in the flesh. They are claims which can be challenged — other identities do exist, and appeal powerfully at various times. They are claims too, it is argued, which involve a fatal element of reification, presenting national identity as fixed, permanent and unalterable, when identities are arguably altogether more fluid, multiple and complex (Handler 1994).

There is then the more immediately political claim that all nations desire and are entitled to states of their own, that it is somehow natural for each nation to become a nation-state. This too is highly problematic. Many states in fact are not states of any one nation, even if there could be agreement about what constitutes a nation in the first place, about which there is also considerable confusion, even in the minds of nationalists. But even if there were clarity on this issue, there are many nations in the world that stand little or no chance of obtaining a state of their own. As Gellner long ago pointed out: 'On any reasonable calculation, the number (of potential nations) is probably much, *much* larger than that of possible viable states' (Gellner 1983, 2). And it is by no means obvious that even those nations that have obtained their own states have done so because there is some fundamental, irrevocable right to national self-determination which should take precedence over other rights.

It is quite striking that relatively little of this discussion seems to have found its way into the debate on humanitarian intervention, at least until recently. It may be the case that the emergence of a constructivist approach in international relations will lead, sooner or later, to a more direct engagement with this literature (Wendt 1999; Finnemore 2003). The recognition that identities and norms have some influence over how state interests are constructed and pursued may be quite congruent with a social constructionist critique of nationalism (Ozkirimli 2005). But it would be a mistake to think that the weakness lies only on the one side. Even the most critical writers on nationalism have tended to focus their attention more on what goes on inside states than on what goes on between them, and as a result have kept largely away from this thorny issue (Mayall 1999).

### **The international order**

For most people, most of the time, the expression 'the international order' may seem quite unproblematic. It is a framework in which nation-states and their governments interact in various ways, sometimes peacefully and sometimes not. But the expression is not quite as neutral as it might seem. Relations between states and their governments are, in this formulation, relations between particular kinds of states, between states which are *nation*-states. This may now seem simple commonsense, but it is an assumption which is also of course an integral part of nationalist ideology, that the world is made up of nations, that the primary political unit is the national one. It is an assumption which in turn has effects of its own, in terms of both agency and motivation. It implies that the only serious global actors are nation-states. It implies too there are no other credible motivations than those that relate to national interests, however construed. However successfully or ineptly they perform their role, governments of nation-states are generally assumed to represent the interests of their people as a nation. The notion that the category 'people' is not actually

synonymous with the category 'nation' is rarely contemplated. Rather, as James Mayall has noted:

... in the modern world, the relations of governments, as much as those of peoples, are invariably described as international relations ... except to a handful of scholars, nationalism is not a problem: rather national sentiment is so pervasive and self-evident that it has become invisible. [Mayall 1990, 25.]

When and how did this happen? And, perhaps more importantly in this context, is this a permanent, unalterable state of affairs? To begin to answer these questions, we may have to rethink some of the conventional accounts of how this international order came into being in the first place. The Treaty of Westphalia is often identified as the critical turning point, most eloquently expressed in Leonard Gross's famous description of it as 'the majestic portal which leads from the old to the new world' (Gross 1948, 28, quoted in Osiander 2001, 261). It was now, supposedly, that a set of states, each with reasonably secure borders, agreed to recognise each other's sovereignty over territory and that no outside power had the right to intervene in the internal affairs of another state. This agreement, it is often argued, stabilised the international order, removing earlier justifications for contesting borders and guaranteed some degree of peace and stability in that part of the world. In the subsequent development of international relations, the Westphalian principle has been presented as a source of order and security which the doctrine of humanitarian intervention now threatens fatally to disrupt.

There are a number of problems, however, with this view. It is, to begin with, a rather idealised account. In fact, there have been several occasions over the last two centuries at least in which the principle of non-interference in the internal affairs of other states has been broken, and in cases that would today be considered ones of breaches of human rights. Russia, for instance, intervened in the Ottoman Empire in the 1850s on behalf of Orthodox Christians; France intervened in Lebanon in the 1860s to protect Druze Christians (Garrett 1999). Indeed, from the very beginning, such interference has often actually been explicitly permitted by treaties of one sort or another between states. As Stephen Krasner has pointed out:

... every major peace treaty from Westphalia to Helsinki has included provisions that contradict the Westphalia model: religious toleration in Westphalia itself, succession rights in Utrecht, minority rights and issues of legitimate order in Vienna, minority rights in the 1878 Treaty of Berlin, minority rights in Versailles and human rights in Helsinki. [Krasner 1999, 68–69.]

This idealisation may be no accident. It may have something to do with the nationalist frame of reference within which much of the history of Westphalia itself

came to be located. In a penetrating critique of what he calls the 'Westphalian myth', Andreas Osiander (2001) has argued that the 19th- and 20th-century historians of that period were profoundly unsympathetic to the Habsburg side, largely because that dynasty 'could not be harnessed for any national cause'. Rather, they blamed the Habsburg monarchy's excessive ambition for delaying for several centuries the emergence of a German nation-state. But underpinning this particular, partisan interpretation of events lay a deeper set of nationalist assumptions, which helped to construct a 'nation-state oriented historiography ... based on the notion that the unified, centralised sovereign nation was the desirable end-point of history' (Osiander 2001, 269).<sup>7</sup>

Once this end-point was reached, it was implied, there was a fixity to the system which is largely belied by the facts. As Terry Nardin argues, the more history one knows, the better one understands that the story of the 'Westphalian' system of sovereign states is a:

... highly theoretical abstraction ... states have always been unstable, forming and reforming through conquest or confederation, inheritance or civil war, and their authority has always been contested by internal and external competitors. [Nardin 2006, 454.]

This is certainly the case inside Europe, which 'has never had settled boundaries ... only ten states (the largest being Spain) had the same boundaries in 1989 as they had in 1899' (O'Dowd and Wilson 1996, 7). What determined where the boundaries were drawn was often superior force. Charles Tilly (1975), for example, insists that what he calls the 'original' European nation-states (in Spain, France, England, Brandenburg-Prussia) were constructed from above by elites using considerable levels of coercion to extract resources and loyalty from scarcely willing or consenting subjects. There was, in short, everywhere a prolonged process of pacification before what Anthony Giddens (1985) has called the 'bordered power container' that is the modern nation-state could be established and whose long-term security depended critically on 'direct control of the means of internal and external violence' (Giddens 1985, 121).

This security also came to depend on something else — the belief of those living inside these borders that they were first and foremost fellow-members of a national community. But this belief, like the development of nationalism more generally of

<sup>7</sup> For a rather different critique of the idealisation of Westphalia, which sees it as the origin of an imperialist international order, grounded in a racialised notion of sovereignty, see Barkawi and Laffey (2002).

common human capacity for self-determination, which all share despite their differences', whereas nationalism, by contrast, is 'particularistic, emphasising the differences between peoples, and the value of a nation's distinctive culture, tradition and ways of living. *Nationalism tends to be exclusive whereas democracy is inclusive*' (emphasis added) (Beetham and Boyle 1995, 25).<sup>10</sup>

Some might argue that this distinction is too stark, that different forms of nationalism are markedly less exclusive than others — the American, the French and the British, for example, often seeming historically much more open and accepting than the German. But this has not consistently been the case when we look closely at how citizenship has been variably allocated over time. Rather, it has proven in practice quite difficult for even the most inclusionary forms of nationalism to sustain their openness consistently, before deeper anxieties about who should be allowed in and who kept out have periodically reasserted themselves (Spencer and Wollman 2002, 94–121; Reimers 1998; Cesarani 1996; Weil 1996).

One of the ways in which nationalism's exclusionary logic expresses itself can be found in the way in which many nationalist movements have rejected the rights of others to determine themselves. Evidence for this can be found from quite early on in the history of modern nationalism. Already in 1848, the more powerful nationalist movements generally rejected the idea that weaker ones should have the same rights (Kohn 1965), while after the First World War, many of the newly recognised nation-states of Eastern Europe proved intolerant of nationalist movements in their own areas, either expelling them or demanding that they assimilate, as they embarked on a sustained 'nationalising' drive (Brubaker 1996). Neuberger has provided an extensive list to illustrate his claim that 'the double standard is alive and well everywhere' (1995, 32). Even the Marxist theorist Michael Löwy has conceded that such hypocrisy is commonplace in modern nationalism: 'each oppressed nation, as soon as it is liberated (or even before), considers its most urgent task to exercise an analogous oppression over its own national minorities' (Löwy 1993, 137).

One of the persistent reasons for this has been that the right to self-determination clashes with another right, that of the nation-state (once formed) to determine its own affairs. That there is an inherent tension between these two rights may be suggested by the fact that, for all its repeated support for the anti-colonial struggle,

<sup>10</sup> For something of an alternative view, which sees a necessary tension between the universal and the particular within nationalism, a tension resolved in different ways in different specific nationalist discourses, see Finlayson (1998). However, Finlayson also labels this tension a 'contradiction' and acknowledges that there is limited room for manoeuvre over time, particularly as nationalist discourses become sedimented.

which it forms a central element, was a 'concomitant of the co-ordination of administrative power within the state' (Giddens 1985, 18). As a mass phenomenon, it followed rather than preceded the process of subjugation and enclosure. However secure subjects of nation-states may have felt once the boundaries had been settled, it would be a mistake to think that any of the borders of the original nation-states were freely chosen by the vast majority of those living on one side or the other. For a very long time many of the subjects of the great European nation-states had only a very limited sense of what it meant to be a fellow-national. As recently as the 1870s, over half of the population of France did not speak French at all. The process of converting peasants into Frenchmen, as Eugen Weber (1976) describes it, was a difficult and arduous project, conducted consciously and systematically from above by nationalising elites determined to make subjects feel themselves members of one nation, with an allegiance to that nation overriding all others. The same problem faced the new leaders of a united Italy to an even greater extent. As the Piedmontese statesman Massimo D'Azeglio pointedly remarked: 'We have made Italy. Now we must make Italians' (quoted in Hobsbawm 1990, 44). These problems were not confined to states in Western Europe, but have continued to plague later entrants into the international order. The securing of borders has continued to be an outcome of violent struggle and they have then had to be rigorously patrolled and monitored.

This is not wholly surprising, not least because the struggle to create new nation-states which can take their place in the international order has had to be conducted so often within borders laid down by the original nation-states and their successors inside Europe. For the large majority of post-colonial states, established in the period of decolonisation that followed the Second World War, the actual territory of the newly independent nation was largely given by the colonial unit it succeeded, itself of course a product of conquest. There was then usually an 'isomorphism between each nationalism's territorial stretch and that of the previous administrative unit' (Anderson 1991, 114). This may or may not have coincided with some earlier unit; frequently it did not. However voluble or credible the claims by national liberation movements that they were genuinely popular uprisings against foreign rule and exploitation, the fact is that these struggles were conducted, in territorial terms, within a physical space mapped out by the colonial powers against whom they were conducted. These movements did not, at the time, generally contest the unit itself, but rather who was to govern it. As Mark Zacker has noted, 'it was the borders that were initially drawn and imposed by Western imperialists that later became the acceptable reference for articulating anti-colonial demands for self-determination and independent statehood' (Zacker 2001, 217).

It can, of course, be argued that the entry of the post-colonial states onto the world stage involved an acceptance in the UN Charter that in certain circumstances forcible

intervention could be legitimate. However, it is striking that post-colonial nation-states have tended to be the most hostile to armed humanitarian interventions, fearing not only (and not unjustifiably) imperialist interventions by the major global powers but also the potential threat to the integrity of their own borders.<sup>8</sup>

### **National self-determination and national liberation**

An obvious objection to this line of argument about the constructed and contested nature of many borders is that it fails to take seriously the immense significance of struggles for national self-determination, struggles which have been going on for the past 200 years. For many people, the very idea of national self-determination is itself inherently democratic. John Stuart Mill, for example, long ago made the argument for national self-determination part of his more general case for representative government, claiming that:

... where the sentiment of nationality exists in any force, there is a prima facie case for uniting all the members of the same nationality under the same government, and a government to themselves apart ... This is merely saying that the question of government ought to be decided by the governed. [Mill 1996, 41.]

The concept of national self-determination appears then to be nothing more than another way of expressing the democratic idea that 'the people are presumed to be best qualified to govern themselves' (Freeman 1998, 157).

Humanitarian intervention, from this angle, may be seen as potentially anti-democratic, denying people the right to determine their own fate. However, the equation of democracy and national self-determination is not quite so straightforward for a number of reasons. It is a mistake in the first place to think that nationalist struggles and democratic struggles necessarily have, at best, more than a contingent relationship. Rather, it may make more sense to see that each struggle has its own distinct logic, and that these logics point in ultimately divergent directions (Spencer and Wollman 2002, 121–94; Ringmar 1998).<sup>9</sup> Beetham and Boyle have suggested that democracy is best seen as 'a universalistic doctrine, emphasising the

<sup>8</sup> For a discussion of the complexities of the ASEAN position, see Narine (2005) and Funston (2000). The formation of the African Union has seen an apparent shift from the non-interventionist stance of the Organisation of African Unity; for a pessimistic discussion about the prospects for human rights in the new African Union, see Udombana (2002) and for a cautious but more optimistic analysis see Kioko (2003).

<sup>9</sup> For a fuller discussion of these distinctive logics, see Spencer and Wollman (2002, 94–121) and Ringmar (1998).

the United Nations did not get around to formalising the right of self-determination until 1960, and then insisted that it is not absolute but has to be qualified by other principles which affirm the territorial integrity of states (Hannum 1996; Moore 1997). From the viewpoint of the newly formed nation-state, the right to self-determination can after all appear easily as the threat of secession, a danger not just to the sovereignty of particular nation-states but to the security of the international order, in which they now have a major stake. It may be for this reason that it is post-colonial states which have, as Christopher Clapham has noted, 'emerged as the most strident defenders of Westphalian sovereignty', however much the treaty long pre-dated their own appearance on the international stage (Clapham 1999, 527). Preventing secession, or even suppressing the rights of those demanding autonomy short of full statehood, has at times been a major priority for new nation-states and, indeed, has been the occasion in some instances for the sort of gross abuse of human rights that has actually given rise to calls for intervention.

### **Violence, human rights and the nation-state**

Some have argued, however, that the violence used by aspiring or new nation-states is unavoidable and necessary. Is the use of violence, as we have seen above, not a well-established practice, central to the construction of any nation-state old or new? Mohammed Ayooob, for instance, has argued that there are certain levels of violence which have to be accepted from 'new and weak states struggling to establish themselves as fully-fledged members of the international community' (Ayooob 2002, 92). In order to establish themselves at all, he asserts, these states will need to be able to exercise some violence against 'recalcitrant elements that refuse to accept the authority of the emerging state that is attempting to centralise power in its hands' (above). Thus, a period of grace should be given to new ex-colonial states, precisely because few modern nation-states would have been successfully developed into modern liberal democracies if they had been constrained by universalist human rights regimes and the interventions they seek to justify.

Indeed, it may be argued that human rights themselves could not have been developed outside the framework of the nation-state and nationalism. David Held (1995), for instance, has argued that the granting and acquisition of rights was tied up in crucial ways with the development of the nation-state and the emergence of nationalism as an ideology. As states required large standing armies (which had to be financed) to fight the wars that enabled them to establish their sovereignty over territory, rulers had to come to a long-term arrangement with their subjects. At the same time, subjects also had to come to see that the territory they were defending was theirs and that those threatening it were dangerous others. Nationalism was the ideology that bound rulers and subjects together in making this compact. The

democratic revolutions in the West, while they changed the rulers and transferred sovereignty from the monarch to (some of) the people, did not challenge this deep-seated ideology but rather reinforced it, as citizens asserted and obtained their rights as members precisely of the national community, most dramatically in 1789 in France with the Declaration of the Rights of Man.

Others have gone further, insisting that there has never been and can never be, at least in the foreseeable future, any other agency that could grant and secure rights. David Chandler (2002), for instance, a persistent critic of arguments for humanitarian intervention, has argued that for all its faults the nation-state is the only agency that can perform this role. It is the only organisation to which citizens feel sufficiently close, to which they exhibit the necessary allegiance and commitment, which in turn gives them the confidence to demand rights in the first place. Conversely, it is only the nation-state which has a real, concrete and material interest in granting rights to them as its subjects, or, better, as citizens. Talk of rights outside the framework of the nation-state is, by contrast, an exercise in rhetoric. It is to invoke the abstraction of the free-floating individual, unmoored from his or her necessary roots in an actual society, a nation-state.

Such rhetoric, moreover, is said to be dangerous, particularly when it involves, as arguments for humanitarian intervention always do, taking power out of the hands of a nation-state, and especially of weaker nation-states. It is then, supposedly, a rhetoric which masks quite different, altogether more sinister, motives. It is, on this account, only stronger, imperialist nation-states which use this rhetoric and always with one overriding objective: to maintain their own domination of other nation-states and of the international order itself.

None of this is necessarily to deny that nation-states can violate human rights. It is, rather, to suggest that the remedy for such abuse, if it exists, lies not in the hands of outside bodies but in the hands of the national community itself. There are a number of versions of this argument, perhaps the most influential being those advanced by Mill in the 19th century and more recently by Michael Walzer (although the latter has made important qualifications to his original position). Mill insisted that liberation cannot come from without, that it is not a true or genuine freedom unless it is won by those suffering from tyranny themselves. No future polity will be sustainable unless it has been fought for by the people themselves. But, as Caney (2005, 279) points out, Mill explicitly assumes that people and nation are the same thing. Walzer explicitly draws on Mill in arguing that 'there is no right to be protected against the consequences of domestic failure, even against a bloody repression' (Walzer 1977, 88). Injustice is in his view largely an internal matter between 'domestic' tyrants and their subjects.

It is true that Walzer does make an exception for genocide, but this is not couched in terms that directly challenge the assumption that the people and the nation are the same thing. His argument is, rather, that 'when a government turns savagely upon its own people, we must doubt the very existence of a political community to which the idea of self-determination might apply' (above, 101).

But genocides are not committed by a state against *all* of its own people but against those who are deemed not to be a part of the nation in one way or another. And they are committed by states inside their own borders. Far more people have been killed over the last century by their own national governments than in wars between nation-states — 35 million in the latter case; somewhere between 150 and 170 million in the former (Rummel 1994). It is precisely those organisations which present themselves as guardians of the nation, who have most effectively and thoroughly trampled on the rights of their national subjects. This has very often been done by representing their victims as no longer legitimate members of the national community itself. Now outside the nation, now constructed as enemies of the nation, whether on 'racial', or on 'ethnic', or on 'class' grounds, those who thought they had rights have all too suddenly discovered they no longer possess them.

This is not an accident. There was, after all, a latent flaw in the most fundamental statement of rights at the beginning of the modern, nationalist epoch. As Hannah Arendt was perhaps the first to see, the Declaration of 1789 contained a fundamental and, as it turned out, fatal contradiction, since:

... the same essential rights were at once claimed as the inalienable heritage of all human beings *and* as the specific heritage of specific nations ... The practical outcome of this contradiction was that from then on human rights were protected and enforced only as national rights. [Arendt 1979, 230.]

Within the nationalist framework laid down by the Declaration, nation-states could indeed deprive people not only of their rights, but of the right to have rights at all. As Margaret Canovan puts it, once expelled from the nation-state and turned into refugees:

... the rights lost by the stateless were much more fundamental than those traditionally listed in declarations of the rights of man. The problem was not so much one of equality before the law as of being recognised by the law at all; not so much that they lacked freedom, as that in their shadowy existence outside the legal community, their actions and opinions were of no interest to anyone. The fundamental human right is therefore the right to *have* rights, which means the right to belong to a political community. [Canovan 1992, 34.]

So, far then from being the source and most effective guarantor of rights, the nation-state is much more likely to be the agency that violates rights most fundamentally, that actually makes it impossible for many people even to have the right to have rights at all. This, in turn, casts some doubt on the realism of the claim or expectation that it is then up to the political community in which rights are being violated to reclaim them, as Walzer asserts. It is surely precisely because those whose rights have been violated are no longer seen as part of the national community that these violations occurred in the first place.

One of the reasons for this lack of realism may be a failure on the part of critics of humanitarian intervention to think about the community itself outside the nationalist frame of reference, for not every political community has to be a national one. It is a central part of the *nationalist* political project to make it appear commonsense that it has to be so. This is a project to which nationalists and the nation-state devote considerable care and attention, repeatedly 'flagging' the nation in a whole host of ways (Billig 1995).

### **Nationalism and the practice of humanitarian intervention**

But this flagging operates on both sides of the divide. The commonsense of nationalism affects the advocates of humanitarian intervention, it seems, almost as much as the critics. For when we look at the way in which humanitarian intervention has most frequently been justified by states undertaking intervention, it has not actually been, as many of the critics argue, in hypocritical cosmopolitan terms. Rather, states have tended to clothe their justifications in terms of more recognisably nationalist motives, to do with concerns about the security of the nation-state in an unproblematised national order, with the need to secure permeable borders, with sovereignty rather than self-determination. Where the violation of rights has been invoked, it has been as it were sotto voce, apologetically and reluctantly.

In the case, for instance, of Tanzania's intervention to remove Idi Amin from power in Uganda, the justifications were overtly framed in terms which might have been designed to appeal to nationalist ears. As Nyerere put it quite bluntly: 'I do not fight for others. The Ugandans do have a reason to remove him, but we do not' (quoted in Garrett 1999, 123). He then justified the intervention by invoking the 'two wars' argument: the Tanzanians were conducting a war of self-defence against Ugandan aggression; the Ugandans were engaged in a war of self-defence against Amin's tyrannical regime.

In the case of India's intervention in East Pakistan in 1967, there was a similar reluctance to advance a humanitarian justification, despite overwhelming evidence

that genocide was taking place. The Indian representative at the UN Security Council did, it is true, initially advance an argument along these lines, but as the debate proceeded retreated swiftly to the claim that India was acting in self-defence, responding (supposedly) to an attack from Pakistan (Baehr 2004).

Vietnam's invasion of Cambodia that toppled the genocidal regime of Pol Pot was, similarly, not apparently undertaken or justified in humanitarian terms. Rather, it was argued by the government of Vietnam that it was fighting a war of self-defence in the wake of a long period of border tensions, fighting and incursions by Cambodia. As the Vietnamese foreign minister explained: 'human rights was not a question. That was their problem ... we were concerned only with security' (cited in Wheeler 2001, 120). So concerned was the Vietnamese government not to suggest that humanitarian concerns were paramount that it put forward the additional, palpably disingenuous, argument that a separate war of liberation by the Cambodian people was responsible for overthrowing Pol Pot's regime, while its own actions were confined to defending its border areas. This may not, as it happens, have greatly helped the Vietnamese regime itself. It could, rather, be argued that it was the reluctance to make a humanitarian argument in support of its actions that made it possible for its critics to make it an object of opprobrium from the world community, when in fact these critics were themselves clearly pursuing their own national interests. This was the case for both China, which attacked Vietnam in support of Pol Pot, and the United States, which continued its struggle with Vietnam by other means. It would appear in this case that, as Falk has argued, 'national interests were at stake in both the interventionist and the anti-interventionist positions' (Falk 1999).

The case of East Timor is more problematic in some ways, but still provides further evidence of the ambiguities or inconsistencies that nationalism generates. Humanitarian intervention here occurred after years of neglect or connivance by the international community, which had left Indonesia to assert its power over the ex-Portuguese colony. Indonesian repression led to the deaths of tens of thousands over the years (Seybolt 2007; Thomashausen 2002). The weakening of the Indonesian government in the wake of the departure of Suharto (who had been responsible for the forcible annexation of East Timor in the first place) opened a space for the people of East Timor to reclaim their rights. The plebiscite which then took place provided overwhelming support for national self-determination for the East Timorese (Seybolt 2007; Thomashausen 2002). This was followed by a violent assault on the local population and the leadership of the independence movement by the Indonesian army and Indonesian-backed militias (Martin 2004).

It was this violence which led to an Australian-led UN intervention, characterised by McDowell and Eastmond (2002) as 'a human rights mission ... in response to

“systematic, widespread and flagrant violations of international humanitarian law and human rights law” (UNSC Resolution 1264). As with other cases, there is argument about how to characterise the causes, nature and consequences of UN intervention. For some, the fact that there was Indonesian agreement to the UN force puts the East Timor intervention into a different category from, say, Kosovo (Coady 2002). But, as Welsh (2004) has argued, considerable ambiguity and coercion can surround apparent consent, as in this case, and it seems reasonable, for all its particularity, to see this as quite a clear case of humanitarian intervention (Martin 2004).<sup>11</sup>

But why exactly was it the Australians who intervened, given that they had, as Wheeler and Dunne (2001) have pointed out, consistently opposed any intervention against Indonesia for many years on familiar nationalist grounds? Successive Australian governments had long argued that national security and economic interests necessitated cooperation with Indonesia and ruled intervention out of order. Wheeler and Dunne argue that the Australians were compelled in the end to intervene because of the pressure of what they call evolving norms. Without wholly abandoning its nationalist frame of reference, the Canberra government was forced to ‘redefine its national interests in ways that were consistent with the common good’ (above, 827).

How true is this? There is certainly some evidence that the Howard government was vulnerable to pressure from public opinion to intervene on universalist grounds, as even those who are most sceptical of Australia’s motivation concede (Prado 2004). However, it is difficult to argue with Cotton’s conclusion that the change of Australian policy in this particular case was an exception and that it did not mark a decisive shift away from a strong commitment to a general policy of non-interference in the internal affairs of sovereign nation-states (certainly in the region) (Cotton 2001). Since the intervention, after all, Australia has also adopted a policy largely critical of UN human rights regimes and insisted on the priority of domestic, as opposed to international, jurisdiction, particularly after reports were published critical of the situation of Aboriginal and Torres Strait Islander peoples (Kent 2002). How radical a break with nationalist assumptions then occurred in this case may be open to some doubt. It seems, rather, to have been more of a temporary and contingent re-articulation of policy, at best an ambiguous and ambivalent endorsement of universalism, which left open the way to a retreat as soon as possible to more familiar nationalist terrain.

11 It certainly falls within the Heinze (2004) and Welsh (2004) definitions cited earlier. This position has been taken by a number of other academic and political actors (Wheeler and Dunne 2001; van Walsum 2002). Others have argued, as they have with the Kosovo case, that there was neither humanitarian intent nor effect (Ahmed 2006; Chomsky 2000).

One important difference between the East Timor case and the earlier Tanzanian and Vietnamese ones is that it was sanctioned by the United Nations. This might have provoked some optimism that a more coherent, post-nationalist foundation for humanitarian intervention was being developed. But subsequent cases of humanitarian intervention have been even more problematic in this context. The Kosovo intervention did, it is true, involve a more explicit focus than before on gross human rights violations that arguably were tending towards genocide. But there was powerful opposition to this intervention from both Russia and China. The scale and source of this opposition, if it did not prevent intervention, nevertheless forced it to be undertaken outside the framework of international law — and not by the UN but by NATO, an international organisation which had not previously made such arguments for humanitarian intervention part of its *raison d'être* and which was in some ways clearly uncomfortable with this new role.

The gap between law and morality which appeared in the Kosovo intervention made many defenders of humanitarian intervention in that case uneasy (Donnelly 2002). And there have been others indeed who have tried to argue that this was not a case of humanitarian intervention at all, neither in intent or effect. Some have claimed that the motives were essentially geopolitical, supposedly to gain access to oil in the Caspian Sea region (Cohn 2003) or to re-assert US global hegemony through an overt display of military might (Chomsky 1999). Others have argued that military intervention was premature, undertaken before negotiations had a chance to work (Wilkins 2003), that the subsequent bombing of civilians in the conflict undermined any initial humanitarian claim (Jokic 2003), and that the use of force actually escalated the scale of the disaster, some even going as far as to claim that any genocide was a consequence, not a cause, of intervention (Ali 2000).

Most careful evaluations of the case (Bono 2003; Thomashausen 2002; Janzekovic 2006; Seybolt 2007), however, have concluded that while there were other motivations, there was a genuine and overriding humanitarian intent on the part of key NATO leaders, especially the British Prime Minister, who committed himself to overturning existing British policy on this issue, which had been marked by an extreme passivity if not collusion with Serbian nationalism for some time (Simms 2001); that the main culprits were overwhelmingly Serbian nationalists; and that the intervention did in fact bring the gross human rights violations, if not the genocide, of the Kosovar Albanians to an end.

Any optimism that, for all their contradictions, the East Timor case and the Kosovo interventions were pointing towards the possible emergence of a more coherent post-nationalist framing of the issue of humanitarian intervention largely disappeared in the wake of the Iraq War, where arguments for intervention on humanitarian

grounds were either abused or obscured in the context of assertions by the American administration of threats to national security, as in the case of the threat posed by Iraqi weapons of mass destruction which could then not be found.<sup>12</sup> While it can certainly be argued that the Iraq War was not a case of humanitarian intervention at all, it has clearly made it easier for nationalist critics to assert that this is but the latest example of the way in which arguments for intervention to protect human rights are always just a cover for imperialist ambitions (Zolo 2001; Conlon 2004).

The most fatal consequence of this emboldening of nationalist arguments has been the impasse now over humanitarian intervention in Darfur, despite mounting evidence of mass murder being committed once again by a sovereign nation-state against those it has targeted as its enemies within its own borders (Prunier 2005; Totten and Markusen 2006).

### **Beyond nationalism — a cosmopolitan alternative?**

What all this suggests is that there is a need for a more coherent approach to the problem of humanitarian intervention, grounded in a more critical perspective on nationalism than has hitherto often been the case. There are a number of signs that such an argument is being developed in some of the now quite extensive cosmopolitan literature that has emerged in recent years.

Cosmopolitanism, of course, has a rich and long history, going back to at least the Stoics in Western thought (Heater 1996).<sup>13</sup> It is a set of ideas which needs to be distinguished from even the most liberal conceptions of nationalism (Tamir 1993) and also, strictly speaking, from internationalism, since semantically at least the latter presumes that there have to be nation-states in the first place. In some of its more restrictive interpretations, internationalism can be formulated as an alternative to cosmopolitanism, as a way of managing the international system, either coercively or in a more accommodating manner (Goldmann 1994).

Some internationalists, however, have come very close to cosmopolitanism, most famously perhaps Immanuel Kant, whose 'Project for a Perpetual Peace' argued for a world composed of republican nation-states that could create a federal association, based on principles of international right.<sup>14</sup> But Kant was writing in the era of the

12 For a thorough discussion of the impact of the Iraq War on an emerging norm of humanitarian intervention, particularly in relation to the crisis in Darfur, see Bellamy (2005).

13 Though it can be argued that similar ideas can be found also in the Hindu concept of *Advaita* and in the Chinese notion of *Ta T'Ung* (a great society including all people under heaven); see Heater (1996).

14 There is some debate in the literature as to whether this proposal represented a pragmatic step on Kant's part towards a more desirable cosmopolitan system (Held 1995), or whether it represented a retreat (Ree 1996).

French Revolution, before nationalism had become such a potent ideological force in the modern world, before the deeper contradictions identified by Arendt became manifest, and before the immense moral catastrophes of the 20th century that were her primary concern. What contemporary cosmopolitans start from, like Arendt, is the perception that a whole new set of problems has emerged with these catastrophic events, to which there seems no adequate response from within a nationalist frame of reference. As Robert Fine puts it, we need to 'learn from catastrophe', not just from the Holocaust but from the recurrence of genocide since then,<sup>15</sup> from the repeated commission of what are now recognised as crimes against *humanity*. Fine argues that thinkers as different as Habermas and Arendt have recognised the novelty of this situation and the need to develop a new cosmopolitan approach to deal with it. As Arendt put it:

... human dignity needs a *new* guarantee which can only be found in a *new political principle, a new law on earth*, whose validity this time must comprehend the whole of humanity ... the right to have rights, or the right of every individual to belong to humanity, should be guaranteed by humanity itself. [Arendt 1979, ix, 299, quoted by Fine 2006, 55–56.]

The existing international order poses a major obstacle to such a guarantee. As Jack Donnelly has noted, for a very long time in the face of such catastrophes, 'the regular practice of states ... was *not* to intervene' and throughout the period of the Cold War in particular, 'a pattern of superpower *anti*-humanitarian intervention ... was well-established' (Donnelly 2002, 94, 97). But cosmopolitans argue that both the scale and the repetition of such crimes make this pattern and typical response morally unsustainable.

Fine has insisted that what is needed is a radical rethink. This can take a number of different forms. One, argued with great cogency by Simon Caney, is to challenge the notion that there is a watertight distinction between a domestic and a global realm, on the grounds that there is, contra realism in particular, 'no morally fundamental difference' between the two (Caney 2005, 267). Another, put forward with a feminist inflection by Catherine Liu (2006), is to suggest that any such difference, which seems so often to be simple commonsense, rests or is patterned on a distinction between a private, interior world (where the nation-state, like the father, is sovereign) and a public, external one.

The implication of such arguments is that the very notion of intervention from the outside has to be rethought, since there is no longer a clearly or acceptably defined

15 A relatively limited list could include Guatemala, Biafra, East Pakistan, Burundi, Paraguay, Cambodia, Bosnia, Kosovo, East Timor and the Sudan. See the map and chronology in Rittner et al (2002, 4–18).

outside in the first place. Instead, cosmopolitans suggest that we ought to think first and foremost of a global world composed of individuals of intrinsic and equal moral worth. Each of these individuals has rights which are universal; and these rights generate obligations on the part of others in what has to be understood as an overarching global community.

There are many difficulties with such arguments, of course. What rights do or should individuals have? Who can guarantee them? Can there be a *global* community? Should borders be of no political or military significance whatsoever? There is no space here to answer these serious questions, but it is noticeable how many cosmopolitan arguments seek to go beyond nationalism rather than simply replacing it. Rainer Baubock (1994), for example, has argued for a transnational conception of citizenship that builds on but transcends existing national definitions and allocations of rights. David Held (1995) has proposed 'an expanding institutional framework' in which the powers of national executives and legislatures would be complemented by both local and regional ones (from below) and by transnational ones (from above).

These arguments are not wholly nebulous, as nationalist critics might assert. They are rooted in part in observations about recent and growing developments: in mass migration in an increasingly globalised world; with the emergence alongside this of what Held has called more 'complex loyalties and multi-layered identities, corresponding to the globalisation of economic and cultural forces' (Held 2002, 55); and to the development of new rights regimes, at least in Europe (Soysal 1994).

There do appear, in any event, to be some grounds for believing, as Held asserts, that a sense of a global community is in fact developing. The suffering of others far removed from us in space is now much more visible, more or less immediately, not least on our television screens. If a central prerequisite of nationalism is, as Anderson (1991) argued, the ability to imagine ourselves as connected to other members of a national community, who we will never meet or see (a prerequisite that he claimed was secured by the advent of print capitalism and newspapers in particular), then that now applies much more widely and extensively. It is brought to our attention by organisations and campaigns which evoke a global solidarity in calling us to respond to images we now see and hear from far and wide. The *cosmopolis* is, one might argue, a new imagined community, repeatedly flagged by such agencies.

Even if they currently lack many of the considerable resources of nation-states, these organisations and campaigns are, many argue, in the process of creating a global civil society (Kaldor 2003; Baker and Chandler 2004; Anheier et al 2005), one that invokes a global solidarity of citizens across the problematic borders and boundaries of

nation-states and challenges the hitherto sovereign power of nation-states to violate the rights of their subjects with impunity.

Cosmopolitan arguments are therefore not only to be found in the academy, but inform developments in global society. They can no longer be dismissed as merely utopian, for at least two reasons.

The first is that a set of laws, conventions and principles has been articulated since the Second World War which contains some cosmopolitan elements, even if these are often embedded in a framework which remains largely nationalist. The Universal Declaration of Human Rights, for example, replaced the more contradictory set established in the earlier French nationalist context, although it is not without continuing contradictions of its own. (It insists on the individual's right to leave a nation-state, but does not insist on the right to be allowed to enter another.) As Patrick Hayden (2005) has argued, cosmopolitan tendencies are clearly evident in the Declaration's assertion of the universality of rights ('*all humans are born free and equal in dignity*'), although, as Freeman notes, because the UN was so committed in 1948 to state sovereignty, 'it left unclear what was to be done if sovereign states violated human rights' (2002, 43). But it was the Genocide Convention that more clearly recognised that it was nation-states that could pose the gravest danger, as the Nazis had just demonstrated. With the Nuremberg and Tokyo trials, the Convention helped to establish the notion of crimes against humanity (Ishay 2004, 218),<sup>16</sup> even if the commitment to halt or prevent genocide has so often been thwarted by nationalist considerations. Together they laid the foundation for a number of subsequent efforts to develop cosmopolitan law and law enforcement mechanisms, such as the International Criminal Court and the International Criminal Tribunals for the former Yugoslavia and for Rwanda (the ICTY and the ICTR) (Hayden 2005).

The second, and more direct, reason is that the issue of humanitarian intervention is not going to go away. So many cases have now arisen that they have forced policy makers to think, explicitly or implicitly, about many of the arguments which cosmopolitans have presented. There have been several reports on humanitarian intervention in recent years, one of the most important and influential being that of the International Commission on Intervention and State Sovereignty (ICISS) on 'The Responsibility to Protect', which reported in 2001.<sup>17</sup>

The Commission produced the most cogent public statement to date of the need, in 'extreme and exceptional cases', for external armed intervention, although it still

<sup>16</sup> On the necessary connection between genocide and crimes against *humanity*, see Geras (2005).

<sup>17</sup> For a review of some of the most significant such reports, see Newman (2002).

places on nation-states the primary responsibility for the protection of their own citizens (ICISS 2001, 31). But, at the same time, it suggested that such intervention needs to be placed in a broader context, that it is not only a matter of reacting immediately to a crisis but taking on a much more comprehensive responsibility. That responsibility, the responsibility to *protect*, has three interlocking elements: the responsibility to prevent, to react and to rebuild. It is (only) the second of these that provides for military intervention as hitherto understood, what is defined in the report as an obligation 'to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention' (ICISS 2001, XI). Even then, direct military intervention is seen as a last resort and only to be undertaken in the case of the most extreme human rights abuses, and following the application of a set of stringent criteria — based on 'right authority, just cause, right intention, last resort, proportional means and reasonable prospects' (ICISS 2001, 32).

Subsequently, the UN Secretary General set up the High Level Panel on Threats, Challenges and Change to

... assess current threats to international peace and security; to evaluate how well our existing policies and institutions have done in addressing those threats; and to recommend ways of strengthening the United Nations to provide collective security for the twenty-first century. [Annan 2004, vii.]

The final report of this panel — *A More Secure World: Our Shared Responsibility* (UN 2004) — reiterates the desirability of states taking responsibility for providing for the security of their own citizens but examines a number of areas where collective security is the only way forward. The conclusions of the panel were, as with the ICISS report, that there were occasions when the responsibility to protect could only be provided externally. Paragraph 203 asserts:

We endorse the emerging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent.

The report goes on to suggest strict criteria that the Security Council should adopt consistently to ensure legitimacy in any sanctioned interventions.<sup>18</sup>

<sup>18</sup> These were very similar to the principles suggested in the ICISS report — namely, seriousness of threat, proper purpose, last resort, proportional means and balance of consequences (UN 2004).

Following this report, Kofi Annan issued his own report, again dealing with a wide range of issues, published as *In Larger Freedom* (Annan 2005). The Secretary General strongly endorsed the principle of a collective responsibility to protect and endorsed Security Council military intervention as a last resort in cases where 'national authorities are unable or unwilling to protect their citizens' (above, para 135). The General Assembly of the UN at its 2005 World Summit subsequently adopted right-to-protect principles. In a key paragraph, the General Assembly explicitly stated that there were circumstances in which intervention was required:

In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council ... on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, *should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.* [UN General Assembly, 2005 World Summit Outcome, UN Doc A/60/L.1, para 139, emphasis added.]

This can be seen as an important step forward for the acceptance of interventionary principles, although others are more sceptical.<sup>19</sup>

But what remains striking, nevertheless, is how much of the cosmopolitan argument has now entered what one might call the mainstream of the debate. These are arguments which are no longer confined to the academy or to small campaigning groups. And they are arguments which, contra the nationalist critics of intervention, do not in fact give a carte blanche to intervention by great powers, or indeed anyone else. The Commission's criteria, noted above, parallel criteria for intervention which almost every serious cosmopolitan critic has identified, that intervention must have a serious humanitarian purpose; that there must have been gross violations of human rights by a nation-state; that force must be used as a last resort; that the force used must be proportionate; and that there must be reasonable prospects of success.<sup>20</sup>

### Conclusion

Each of these criteria for intervention of course requires judgments to be made in any particular case. Determining exactly 'what would constitute a good cosmopolitan judgement' of any particular humanitarian military intervention is, as William Smith

19 Alex Bellamy has suggested that the desire to secure a consensus significantly diluted the original proposals to produce an outcome that can be 'used by supporters and opponents of intervention alike ... when confronting a humanitarian emergency' (Bellamy 2006, 169).

20 See, among others, the very thorough discussions of such criteria in Heinze (2004); Caney (2005); Liu (2006); and Wheeler (2001).

argues, a complex matter (Smith 2007, 86). But what is clear is that in every case so far where humanitarian intervention has been proposed, nationalists have tended to argue (and with considerable success) that none of the criteria that have been suggested apply or should apply.

This is not an accident. There is a force to nationalist objections to humanitarian intervention, which derives, as we have tried to suggest here, from the way in which core nationalist assumptions continue to be treated as unproblematic, even by some of those advocating intervention themselves. If the case for humanitarian intervention is to be made more effectively in the future, it will have to be by challenging the validity of these assumptions more consistently and more coherently than has largely and hitherto been the case.

This challenge will need to be one based on an understanding that the international system rests on mutual recognition of borders which are in many ways arbitrary and far more often the outcome of violence than of consent; that nationalism is an inherently contradictory ideology, which fosters the belief that all nations can have states of their own, while repeatedly and systematically denying this right at the same time, through the competing and antithetical doctrine of national sovereignty; and that the nation-state to which it accords the highest value is not the source of, nor the guarantor of, but rather the primary and most extreme violator of rights.

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