Human Rights and Intervention

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It is fairly common to believe that it is morally wrong for nations to intervene in the affairs of other nations. This belief has played an important role in the current debate about whether the promotion of human rights should be a fundamental goal of U.S. foreign policy.¹ There are those who object to giving U.S. foreign policy a human rights orientation on the grounds that this would be “interventionistic.” Ernest Lefever, for example, has argued:

Making human rights the chief, or even major, foreign policy determinant carries dangers... International law forbids any state from interfering in the internal political, judicial and economic affairs of another. Fundamentally, the quality of life in a political community should be determined by its own people...²

As Lefever rightly indicates, international law prohibits certain forms of interventionary activity. And those who argue that the promotion of human rights should not be a basic aim of U.S. foreign policy sometimes claim that such a policy would commit the United States to a violation of principles of international law. But for the purposes of this discussion, I will not consider what international law has to say on the subject of intervention.³ Instead my concern is with the claim that, independent of what international law prescribes or prescribes, intervention on behalf of human rights is morally impermissible.

Those who have argued against the legitimacy of intervention have rarely, if ever, argued for an absolute prohibition against interventionary activity. Two types of qualifications have generally been acknowledged. On the one hand, there are what might be termed general exceptions to a comprehensive nonintervention rule, whereby specified types of interventionary activity are thought to be excluded from the rule. On the other hand, there are what might be termed special exceptions, whereby it is conceded that extraordinary circumstances can override a presumption against interventionary activity of a specified type. Among the standard general exceptions which have been recognized at one time or another are the following: intervention for the purpose of (legitimate) self-defense; intervention to protect citizens of one state

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when they are within the territory of another state; intervention in the interests of the balance of power; and intervention in response to illegitimate intervention (intervention to enforce nonintervention). Defenders of a general rule of nonintervention normally have not recognized intervention on behalf of human rights, a subclass of what is commonly referred to in the literature as "humanitarian intervention," as a general exception to the rule of nonintervention. However, even though they do not recognize intervention on behalf of human rights as a general exception, defenders of a comprehensive nonintervention rule commonly allow that certain cases involve such flagrant abuses of human rights (for example, the treatment of Jews in Nazi Germany) that the presumption against humanitarian intervention is overridden. Nevertheless, it is not uncommon for such a statement to be followed by the reminder that these cases are indeed "extraordinary."

In this paper I shall argue that the case for a moral presumption against intervention on behalf of human rights is unconvincing. I will examine what I take to be the major standard moral arguments against intervention, and I will claim that whatever their merits with respect to other types of interventionary activity, none of these arguments provides a conclusive basis for a presumption against intervention on behalf of human rights.

However, before proceeding, a few preliminary remarks about the notion of intervention are in order. The literature on the subject of intervention includes a wide range of definitions of the term. Sometimes intervention is interpreted narrowly to mean "coercive interference" involving "the use or threat of force," and the target of interventionary activity has been identified as "the structure of political authority in the target society." An even narrower interpretation of intervention would restrict it to the use or threat of military force. On the other hand, intervention is sometimes construed broadly to include almost any instance of interference by one state in the affairs of another. A somewhat narrower definition restricts intervention to attempts by the government of one state to compel the behavior of the government of another state. The fact that such diverse definitions of the term have been offered has prompted one writer to observe: "Notwithstanding the voluminous literature on intervention, there appears to be no agreement whatsoever on the phenomena designated by the term."19

Clearly, if a nonintervention rule is to function as a moral constraint upon the formulation and execution of foreign policy and as a serviceable principle for assessing the behavior of states toward one another, some criterion for determining instances of intervention must be fixed. As a first step toward formulating an interpretation of intervention for the purposes of this discussion, I will propose the following condition: To say that the behavior of a state $S_1$ toward another state $S_2$ is "interventionary" implies that $S_1$ undertakes some action10 for the purpose of either (1) producing a change in $S_2$, or in the behavior of $S_2$, or (2) preventing a change in $S_2$, or in the behavior of $S_2$.11

However, if no further condition were added, the claim that efforts to promote human rights in other countries are generally illegitimate because they are "interventionary" could be dismissed out of hand, for international relations involve continual efforts by states to influence other states, and certain efforts to influence (for examples, through negotiation or "quiet diplomacy") are commonly accepted as legitimate. One possibility at this point is to add the condition that an act is interventionary only if force is used or threatened. But the following considerations suggest that this condition is unsuitable for the purpose of this discussion. First, it can be argued that there are strong independent reasons for prohibiting the use or threat of outright force as an instrument of foreign policy. Thus, it is important to consider whether there are substantial moral reasons for supporting a qualified presumption against attempts by one state to produce or prevent changes in another state, even if no use or threat of force is involved. Second, it seems to me that those who object to giving U.S. foreign policy a strong human rights orientation on the grounds that it would commit the United States to an "interventionistic" foreign policy are not merely invoking the specter of marines or clandestine agents landing or operating on foreign soil. Rather, their objection seems to be of a more general nature, namely, that it is illegitimate for the United States, or any country, to "meddle" in the affairs of another nation.13 Third, the public debate over whether the United States should seek to promote human rights in foreign countries has not been occasioned by proposals by policymakers to send military units to, or to finance clandestine operations in, foreign countries. Rather, it has focused primarily upon measures such as imposing conditions on bilateral military and economic assistance to, and imposing economic and other sanctions on, governments which have poor human rights records.14 That is, by and large the controversy has concentrated on the legitimacy of efforts by the United States to compel foreign governments to improve their human rights records.15

This suggests the following as the additional condition for which we have been looking: the behavior of $S_1$ toward $S_2$ is interventionary only if $S_1$ attempts to compel the government of $S_2$ to act in a manner desired by $S_1$. Compulsion, it is important to recognize, need not involve force or the threat of force. Rather, it occurs whenever an attempt to modify behavior contrary to an agent's wishes is carried out by the production of, or a threat to produce, undesirable states of affairs in the event of noncompliance. Thus, for example, $S_1$ attempts to compel the government of $S_2$ if it seeks to get the latter to act contrary to its wishes by terminating or threatening to terminate part or all of $S_1$'s military or economic assistance to $S_2$. Accordingly, intervention can now be defined in the following manner:

The behavior of $S_1$ toward $S_2$ is interventionary if and only if: (1) $S_1$ undertakes some action for the purpose of either (a) producing a change in $S_2$, or in the behavior of $S_2$; or (b) preventing a change in $S_2$, or in the
behavior of $S_2$; and (2) in order to achieve this end, $S_1$ either compels or attempts to compel the government of $S_2$ to act in an appropriate manner.

It might be objected, however, that this definition of intervention is too narrow. For it fails to include those cases in which a state attempts directly to produce or prevent changes in another state, or in the behavior of that state, by, say, financing opposition candidates, disseminating hostile propaganda, or supporting insurgency movements. Since such attempts directly to produce or prevent changes do not involve efforts to compel or coerce (current) governments to modify their behavior, they could not be termed instances of intervention according to the above definition. But this seems both arbitrary and counterintuitive.

This objection can be met by construing conditions (1) and (2) above as sufficient, not necessary and sufficient, conditions of intervention. To do so will suffice for the purposes of this discussion. For, as my earlier comments suggest, the issue of intervention has entered into the public debate about whether the United States should seek to promote human rights abroad primarily in the context of questioning the legitimacy of efforts by the United States to compel foreign governments to improve their human rights records. Since such efforts have been opposed on the grounds that they are “interventionistic,” I think that it is important to consider whether convincing arguments can be provided for a moral presumption against attempts to compel foreign governments to improve their human rights records, and this is what I propose to do in the remainder of this chapter by examining various arguments against intervention.

Arguments against intervention can be divided into two broad categories, consequentialist and nonconsequentialist arguments. Consequentialist arguments claim that intervention, or certain types of interventionary activity, should be prohibited because of the undesirable consequences which flow from intervention. Insofar as they rest upon a claim that intervention, or specified types of interventionary activity (normally) produce certain types of effects, consequentialist arguments are empirical in nature. Nonconsequentialist arguments, on the other hand, claim that, independent of the effects produced by interventionary activity, there are conclusive reasons for recognizing a nonintervention rule. Arguments of this type, then, do not rely upon empirical claims concerning the likely effects of intervention. Moreover, whereas consequentialist arguments cite certain undesirable effects as reasons for prohibiting intervention, nonconsequentialist arguments attempt to establish that interventionary activity is intrinsically wrong. In this section I will examine nonconsequentialist arguments against intervention, and in the following section consequentialist arguments will be discussed.

The first nonconsequentialist argument which I shall consider is an argument against intervention in general. It invokes an analogy between individuals and a principle which is commonly referred to as the “harm principle,” on the one hand, and nations and a general rule of nonintervention on the other hand. To begin with the case of individuals, the argument runs as follows. Each person is entitled to respect from all other persons as a free (autonomous) and equal moral agent. This principle, the principle of respect for persons, is a basic moral principle. Now, the harm principle is a rule which expresses the appropriate respect to which each person is entitled. According to the harm principle, except for the purposes of self-defense or to prevent harm to others, it is illegitimate for one person $x$ to interfere with the conduct of any other person $y$. In particular, $x$’s belief that $y$ is acting, or is about to act, in a way which is detrimental to $y$’s mental and/or physical well-being or to $y$’s happiness, does not justify $x$’s interfering with $y$’s conduct. To compel $y$ to act in a way contrary to $y$’s will in such cases would involve a failure on the part of $x$ to recognize $y$’s freedom to select his or her own values and to acknowledge $y$’s capacity to choose for himself or herself. In short, if $x$ were to interfere in such cases, $x$ would fail to respect $y$ as a free and equal moral agent. Thus, the argument concludes, the harm principle should be recognized as a basic norm of interpersonal relations.

To turn now to the case of states, an argument for a nonintervention rule based upon a purported analogy with individuals and the harm principle can be formulated as follows. States are personlike entities in that states can be said to have goals and ends and to act. To be sure, it is individuals who determine what become the goals or ends of a particular state at any given time, and it is individuals acting in certain capacities or roles who act for the state. But it is still proper to say that the state as a whole has or pursues certain goals or ends (for example, in its domestic or foreign policy). And insofar as it is correct to say in particular instances that specified individuals are acting as representatives or agents of some state or other, it can be said that their actions (for example, signing a treaty or issuing a declaration of war) comprise actions of the state they represent. Now since they are personlike entities, states, like individuals, are entitled to respect as free and equal moral agents. This means that each state is entitled to have its autonomy or sovereignty and moral equality recognized by all other states. And, the argument concludes, the fact that a general rule of nonintervention is a suitable analog to the harm principle recommends it as a basic norm of interstate relations.

This argument is open to a number of objections, but I will restrict my remarks to the following two points. First, there is a significant disanalogy between the harm principle and a rule prohibiting intervention among states. The harm principle prohibits interference to prevent individuals from acting in ways which others believe to be detrimental to the agent himself or herself. But it does not prohibit interference to prevent harm to individuals by others (third parties). In cases where human rights violations occur as a result of
governmental policies, for example, it would be false to say that a person (the state) is harming itself. Rather, in those cases, individuals (citizens) suffer harm as the result of the actions or omissions of other individuals (government officials and their agents and supporters), and the harm principle would not proscribe interference in such cases. Hence, it is misleading to invoke an analogy with the harm principle to support a general rule of nonintervention which includes a presumption against intervention on behalf of human rights.

Second, the foregoing argument fails to make a conclusive case for any nonintervention rule. Even if it were conceded that states are personlike entities in the respects claimed, it would not follow that states and persons have similar moral rights and duties. Whereas it might be plausible to claim that the principle of respect for persons is a basic moral principle, it is not plausible to assert that a principle which expresses respect for the autonomy or sovereignty and moral equality of nation-states is a basic moral principle. In any event, an argument is needed to show why collectivities like nation-states should be recognized as objects of respect and subjects of rights on an analog with persons.

Alternatively, one might try to derive a general nonintervention rule directly from the principle of respect for persons, that is, without invoking a claimed analogy between individuals and states. One such argument proceeds as follows. States are associations of individuals, and the particular cultural traditions and institutional arrangements of a state reflect the unique historical circumstances of that country and the values of its citizens. Now, if the government of a state $S_2$ were to compel the government of $S_1$ to alter the institutional arrangements of $S_1$, this would be tantamount to interfering with the autonomy of the citizens of $S_2$ and their ability to shape the destiny of their nation in accordance with their own values. But this is clearly illegitimate, for it violates the principle of respect for persons, a basic moral principle. Consequently, the argument concludes, there is good reason for recognizing a principle of state autonomy or sovereignty, and a general rule of nonintervention.

Leaving aside a consideration of its merits with respect to other types of intervention, this argument fails in the case of intervention on behalf of human rights. The primary reason for this is a failure to distinguish between just and unjust institutional arrangements. This point can be illustrated with the aid of the following example. Suppose that the traditions and institutions of a particular state have supported the unjust treatment of a racial minority for several decades. Further, let us suppose that this unjust treatment consists in part in gross and systematic human rights violations. In this case it cannot plausibly be claimed that the cultural traditions and institutions of that state reflect the values of the racial minority; nor can it plausibly be claimed that those institutions respect their autonomy. Hence, they might welcome foreign intervention to help them shape the destiny of their nation. Further, the majority cannot legitimately invoke the principle of respect for persons to protect their cultural traditions and the institutions they value from external intervention. For by

hypothesis the majority has consistently failed to respect the freedom and moral equality of minority group members, and it would be nothing less than a cruel irony to invoke the principle of respect for persons to justify perpetuating violations of that very same principle. Thus, the principle of respect for persons does not afford the majority a right to perpetuate unjust institutional arrangements; nor does it afford them a right to be free from external intervention to alter those arrangements. Consequently, the foregoing argument cannot be used to support a moral presumption against intervention to compel foreign governments to change unjust institutional arrangements which support human rights violations.

The social contract or consent account of the legitimacy of government interference with individual liberty might be used to generate another nonconsequentialist argument for a general nonintervention rule. However, since it is implausible to claim that citizens give or have given their expressed or tacit consent to violations of their rights or that they would never consent to interference by foreign governments, this argument need not be considered here. Instead I will discuss an argument in which the notion of actual (explicit or tacit) consent is replaced by the notion of hypothetical consent. This will be the final nonconsequentialist argument which I shall consider.

Since John Rawls is the leading contemporary spokesman for social contract theory, my discussion will focus upon his formulation of the contract strategy. Rawls employs the device of a hypothetical social contract to derive and justify principles of social justice. These are principles which assign basic rights, liberties, and duties and which specify entitlements and conditions of access to wealth, occupations, and so on. By his account, to ask whether the political and economic institutions of a particular society are just is not to ask whether the members of that society have given their explicit or tacit consent to those institutional arrangements. Rather, it is to ask whether those institutions are compatible with principles which they would acknowledge if they were to adopt the perspective of a hypothetical situation which Rawls terms the “original position.”

What must we do in order to adopt the perspective of persons in the original position? Among other things, it would be necessary for us to don what Rawls refers to as “the veil of ignorance.” In so doing, we would develop a fairly severe case of temporary amnesia. For as a result of the veil of ignorance, we would no longer know elementary facts of the following sort: the particular characteristics of our own society; our position in society (for example, our class, status, occupation, and income); our particular interests and preferences; our physical characteristics, personality traits, intelligence, and capacities.

Now despite the fact that Rawls employs the device of a hypothetical contract, he asserts that the outcome of this thought experiment is not devoid of moral significance. For largely as a result of the veil of ignorance, when assuming the perspective of the original position, individuals relate to one another as free and equal moral persons, and any agreements reached by them
will be fair. As Rawls puts it, when actual social arrangements satisfy principles which would be selected from the perspective of the original position, the members of that society "can say to one another that they are cooperating on terms to which they would agree if they were free and equal persons whose relations with respect to one another were fair."\(^{20}\) This, then, is the basis of the claim that by adopting the perspective of persons in the hypothetical original position, we can address fundamental ethical questions.

Rawls's primary concern is with principles of justice which apply to the basic political, economic, and social arrangements of nation-states, not to relations among those states. Accordingly, the question Rawls asks is: Which principles would be selected by the parties to a hypothetical domestic social contract?\(^{21}\) But the question of particular interest to us is this: Would the parties to a hypothetical international social contract agree to a nonintervention rule which includes a presumption against intervention on behalf of human rights? The claim that they would constitutes another argument for a general nonintervention rule.

Like the other nonconsequentialist arguments we have considered so far, this argument also fails. For suppose it is assumed that: (1) the parties to the contract agree that the world should be divided into separate and politically independent nation-states, and they have already selected principles of justice which apply to the basic institutional arrangements of particular states;\(^{22}\) (2) the principles of justice which have been selected recognize certain fundamental rights, that is, "human rights"; and (3) the contractees assume that citizens of actual states are sometimes subject to serious human rights violations and that in some cases citizens are unable to bring about a timely end to those rights violations without external assistance from foreign nations.\(^{23}\) Then the parties to the international social contract would recognize that if they selected a nonintervention rule which included a presumption against intervention on behalf of human rights, citizens of nation-states would run the risk of being indefinitely subject to serious human rights violations. On the other hand, they would recognize that this risk could be avoided by selecting a limited intervention rule which permitted intervention on behalf of human rights. Thus, if they were to consider none of the possible side-effects of permitting nation-states to intervene in the affairs of other nation-states on behalf of human rights, the parties to the contract would select that limited intervention rule.\(^{24}\) Thus, from a contractarian perspective, the case against intervention on behalf of human rights requires consequentialist considerations.

Consequentialist arguments will be examined in the next section. In this section I have analyzed a number of nonconsequentialist arguments for a non-intervention rule. To be sure, I cannot claim to have examined every conceivable nonconsequentialist argument. For there are an indefinite number of such arguments. Still, my selection of the arguments I discussed was not arbitrary, for an effort was made to reconstruct the standard arguments in the literature. Thus I think it is warranted to conclude that none of the commonly advanced nonconsequentialist arguments for nonintervention establishes a presumption against intervention on behalf of human rights.

To turn now to consequentialist arguments, the standard argument of this type for a general nonintervention rule involves the claim that intervention threatens world peace and stability. According to this argument, recognition of a general rule of nonintervention in a world of politically independent nation-states is a condition of peace and stability among those states. Leaving aside a consideration of the merits of this argument as it applies to other types of interventionary activity, can an argument of this nature be used to defend a presumption against intervention on behalf of human rights?

To begin with, it should be noted that an argument from world peace and stability in the case of intervention on behalf of human rights can cut both ways. Hersch Lauterpacht, for example, argues that "ultimately, peace is more endangered by tyrannical contempt for human rights than by attempts to assert, through intervention, the sanctity of human personality."\(^{25}\) A more important point is this. It must be recalled that the term "intervention" includes a wide range of measures, from military force to economic sanctions. It might well be plausible to claim that military intervention generally threatens world peace and stability. Thus, for example, considerations of world peace and stability might rule out sending marines into the Soviet Union to help evacuate Jews who wish to emigrate to Israel. But it is less plausible to claim that there is a serious threat to world peace and stability whenever economic sanctions are employed. To be sure, world peace and stability might be threatened if economic sanctions are applied in order to promote the domestic interests of one state at the expense of another. But it remains to be shown that there is a serious danger whenever economic sanctions are imposed on behalf of human rights. This is not to deny that considerations of world peace and stability should enter into a state's decision on how to act in particular cases. But to admit that such prudential considerations can sometimes weigh against intervention clearly does not commit one to the acceptance of a general presumption against all forms of intervention on behalf of human rights. To claim that world peace and stability require a presumption against all forms of intervention on behalf of human rights is comparable to treating international society like an extremely fragile house of cards which would come crashing down as a result of anything from a sneeze to being hit by a baseball bat.

At this point it might be claimed that although it is possible in principle to distinguish between prudent and imprudent or permissible and impermissible instances of intervention and to formulate appropriate rules, states generally cannot be trusted to make distinctions or to observe rules. And a claim of this sort might then be used to support a general rule of nonintervention. But this line of reasoning would prove too much, for the unqualified skepticism which underlies
an argument of this sort would support the two following broad propositions: (1) states generally cannot be counted upon to distinguish between prudent and imprudent courses of action in matters related to world peace and stability; and (2) states cannot be trusted to observe any rules. The first proposition suggests that the continued existence of a world society divided into sovereign states whose relations are governed by a general nonintervention rule is itself a threat to world peace and stability. And the second proposition implies that it would not matter what sort of rule concerning intervention, whether it be a general nonintervention rule or a limited intervention rule, were acknowledged in theory.

In addition, it is important to recognize that even in the unlikely event that it could be shown that a presumption against intervention on behalf of human rights is necessary for world peace and stability, the case for nonintervention would still be inconclusive. For the absence of interstate conflict and international instability insures neither that international arrangements, nor that political and economic arrangements in particular states, are just. It cannot be denied that world peace and stability are desirable ends. But from a moral perspective, considerations of justice must be taken into account as well. Thus, depending upon the extent to which injustice prevails in the world, it is conceivable that a period of conflict and instability would be justified, all things considered.

The three remaining consequentialist arguments which I shall consider directly address the case of humanitarian intervention. Each of these arguments attempts to show that intervention is generally not in the best interests of its would-be benefactors. The first of these arguments is that of John Stuart Mill. In a short essay entitled “A Few Words on Non-Intervention,” Mill offers a consequentialist argument against intervention to “aid the people of another [country] in a struggle against their government for free institutions,” which might be used to support a presumption against intervention on behalf of human rights. Mill distinguishes between two types of cases: (1) those cases in which an oppressive regime would not be able to remain in power without receiving external assistance from one or more foreign countries; and (2) those cases in which such assistance is neither required nor received. In the former instance, according to Mill, intervention by some third party or parties is already taking place. Further intervention in such cases is justifiable, not on behalf of the victims, however, but in order to enforce the norm of nonintervention. As Mill says, “Intervention to enforce non-intervention is always rightful, always moral, if not always prudent.” However, in the latter instance, Mill claims that intervention is, as a general rule, illegitimate. Mill offers the following justification for this claim:

The reason is, that there can seldom be any thing approaching to assurance, that intervention, even if successful, would be for the good of the people themselves. The only test possessing any real value, of a people's having become fit for popular institutions, is, that they, or a sufficient portion of them to prevail in the contest, are willing to brave labor and danger for their liberation.

According to Mill, it is in the (successful) struggle for liberty against their oppressors that individuals are most likely to develop a “spirit of liberty” or “the virtues of freemen,” that is, dispositions essential to maintaining institutions which secure the basic political rights and liberties of citizens. Since “it is during an arduous struggle to become free by their own efforts” that these dispositions “have the best chances of springing up,” “the liberty which is bestowed on them by other hands than their own [that is, with the aid of foreign intervention] will have nothing real, nothing permanent.”

Now, one might object to the fact that Mill stresses individual dispositions over all other factors (for example, level of economic development, distribution of wealth, class structure) which determine the practical feasibility of particular political arrangements in a given society. However, for the sake of argument, let us grant that certain dispositions are essential for maintaining institutions which secure the basic political rights and liberties of citizens. Still, Mill fails to make a plausible case for the claim that the ability to topple a repressive regime is generally correlated with the possession of those dispositions. Suppose a repressive regime commands a large, well-financed, well-trained, and highly efficient security apparatus which is equipped with sophisticated weapons and communications technology. Then its ability to put down insurgency movements without the aid of foreign assistance does not necessarily indicate that the insurgents lack organization, self-discipline, or any of the other dispositions which one might claim are essential for maintaining institutions which secure basic political rights and liberties. Conversely, if a regime’s forces are ill-equipped, undisciplined, and poorly organized, a victory on the part of insurgents can hardly be said to demonstrate that they possess “the virtues of freemen.”

In addition, Mill fails to show that the experience of fighting an oppressive regime (with or without foreign assistance) will foster dispositions of “freemen.” What is the connection, say, between the abilities, training, and experiences of revolutionaries, guerrillas, or urban terrorists and such dispositions?

Moreover, suppose it is conceded arguendo that if the victims of human rights violations on the part of oppressive regimes are incapable of putting an end to those violations without foreign intervention, then an extended period of foreign assistance and supervision will be required to minimize the prospects of a recurrence of oppressive practices. Still, given the seriousness of human rights violations, even an extended period of foreign supervision might well be preferable to allowing human rights violations to continue unabated.

A second consequentialist argument against intervention on behalf of human rights on the grounds that it is not in the best interests of the victims of rights violations can be formulated as follows. Nations are neither altruistic
nor impartial. That is, in formulating and executing foreign policy, domestic interests, that is, the interests of individuals and groups at home, are decisive, and the interests of foreign nationals are of relatively minor significance. Consequently, when "one state meddles in another's affairs, the nationals of the victim are rarely considered on the same footing as those of the interfering state. The latter treats them rather as means for its own ends."31 As a result, when a nation intervenes in the affairs of another nation for the stated purpose of aiding the victims of human rights violations, its interventionary activity will favor the interests of individuals and groups in the intervening state, rather than the interests of the victims of human rights violations. Hence, the argument concludes, it is in the interest of the victims of human rights violations to recognize a presumption against intervention.

Now one might object to the rather cynical picture of international affairs which underlies this argument. But for the sake of this analysis, I will not dispute it. Still, the argument is not valid. Suppose it is generally the case that when states intervene in the affairs of nations for the stated purpose of aiding the victims of human rights violations, the decision to intervene is shaped primarily by domestic interests.32 Nevertheless, it does not follow that intervention does not generally (also) benefit the victims of human rights violations. Indeed, domestic interests (for example, an interest in promoting stability to protect foreign investments, a concern for a state's "image" in the world, or domestic political considerations) might only be served if the rights situation of persons in the target state is actually improved. Thus, advocates of a moral presumption against intervention on behalf of human rights cannot rest their case upon the mere claim that states are neither altruistic nor impartial. Rather, they must demonstrate further that the victims of human rights violations generally fail to benefit from, or are generally made worse off by, intervention. Given the seriousness of what is at stake in the case of human rights violations, in the absence of conclusive empirical evidence to this effect, it is irresponsible to advocate a presumption against intervention on behalf of human rights.

The last of the consequentialist arguments which I shall examine is an argument from lack of sufficient knowledge, and it can be formulated as follows. "Outsiders," that is, the citizens and governments of foreign states, lack the information, insight, and understanding which are required to know what is best for the citizens of other states. Hence, "the claims of a state's members will generally be better served if they are left to work out their own salvation."33 Consequently, the argument concludes, even if persons in one state sincerely believe that persons in another state are suffering from human rights violations, it is generally in the best interests of the latter for the former to refrain from intervening.

Two logically distinct claims account for the apparent plausibility of this argument. One, a form of moral relativism, is a claim to the effect that the values shared by the members of one state are often significantly different from and as valid as the shared values of persons in other states. And the second is a claim to the effect that persons in one state generally lack sufficient knowledge of the particular circumstances in other states to allow them to determine how to succeed in actually improving conditions in those states.

To begin with the first of these claims, I certainly do not wish to deny that outsiders who claimed to be bringing the "fruits of civilization" to various "backward" regions of the globe during the colonial era, or even in the recent past, were at worst attempting to mask their true interests, and at best grossly insensitive to cultures, traditions, and institutions significantly different from their own. In this respect, I think the foregoing argument might well serve as a helpful caution against what might be termed "cultural imperialism." However, if it is to be used to argue against intervention in cases of purported human rights violations, advocates of that argument would have to deny that there are any transcultural (universal) moral rights, that is, human rights. This in turn would imply that intervention could never be justified by citing claimed human rights violations which it is avowedly designed to eliminate. But those who argue against "humanitarian intervention" rarely, if ever, take such an absolutist position. Insofar as exceptions to the rule are allowed (for example, in the case of the treatment of Jews in Nazi Germany), there is tacit admission that there are certain fundamental transcultural moral rights, the violation of which justifies intervention. But if it is conceded that there are some human rights, then an argument from moral relativism cannot be used to defend a presumption against intervention on behalf of those rights.34

Finally, let us consider the claim that persons in one state generally lack sufficient knowledge of the particular circumstances in other countries to allow them to determine how to succeed in actually improving conditions in those countries. I do not wish to deny that there are real problems in determining what means, if any, will bring about a significant improvement in the situation of victims of human rights violations. But I think that it is at least arguable that "outsiders" are no less equipped to make such determinations than "inside" ruling elites who have shown a persistent disregard of the rights and legitimate claims of large segments of the population. Surely, it is implausible to claim, say, that the U.S. government should generally take at face value claims put forth by repressive regimes that, in view of the particular circumstances in their countries, no significant improvements in human rights are feasible in the foreseeable future, or that they are doing everything practically feasible to improve conditions. This is not to say that such claims are never warranted by the facts. Rather, I only want to suggest that it is unwarranted to maintain that nations like the United States do not have the capacity, and therefore should not even attempt, to determine independently whether such claims have merit.

I have argued that none of the consequentialist and nonconsequentialist arguments which I have considered establishes a convincing case for a general
1. The International Security Assistance and Arms Export Control Act of 1976 specifies in part that "a principal goal of the foreign policy of the United States is to promote the increased observance of internationally recognized human rights by all countries" (P.L. 94-329, 90 STAT. 748).


3. The status of human rights violations in international law has been the subject of considerable controversy. For a discussion of the legal status of intervention, see the essay by Thomas Buergenthal in this volume.


5. I will not consider arguments which attempt to show that it is in the interest of particular states to adopt a policy of nonintervention.


8. Thomas and Thomas observe that "some authorities would include in their definition of intervention almost any act of interference by one state in the affairs of another. For example, it has been said that mere official correspondence carried on by one state with another concerning some action of the other amounts to intervention, while conversely it has also been intimated that a failure of a state to concern itself with the affairs of another might amount to negative intervention." Ann Van Wyngen and A.J. Thomas, Non-Intervention: The Law and Its Importance in the Americas (Dallas: Southern Methodist University Press, 1956), p. 67.

9. According to Thomas and Thomas, intervention involves "actions taken by one state to impose its will upon another against the latter's wishes . . . . The essence of intervention is the attempt to compel," Thomas and Thomas, pp. 68-69, 72.


11. Insofar as intentionally refraining from acting in order to achieve a specified end is construable as "action," this condition does not preclude counting a state's failure to act in certain contexts as an instance of intervention.

12. This condition is suggested by Rosenau. See Rosenau, p. 159.

13. John Vorster, the then Prime Minister of South Africa, apparently thought that he would win the sympathy of some Americans when he made the following statement in the course of an interview: "It is fast reaching the stage where we feel that the United States wants to prescribe to us how we should run our country internally and that is of course unacceptable to us. It is a fool who doesn't listen to advice but nobody can allow outsiders, however well-intentioned, whatever their motives, to meddle in their internal affairs." New York Times, September 17, 1977. It goes without saying that Vorster's remarks were directed against economic and other sanctions short of outright force.

14. The International Security Assistance and Arms Export Control Act of 1976 referred to in note 1 above contains the following additional provision: "It is further the policy of the United States that, except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights."

15. It is sometimes assumed that military and economic assistance programs give the United States considerable leverage over foreign governments. Accordingly one of the aims of withholding or threatening to withhold assistance to governments with poor human rights records is to compel those governments to change their policies. This construal of the purpose of imposing conditions on aid appears to assume that the United States shares no responsibility for human rights violations. Those who believe that the United States has directly or indirectly contributed to rights violations might advocate imposing restrictions on aid to end U.S. complicity. It would be disingenuous to charge those who take this position with advocating "interventionary" policies. For a discussion of U.S. involvement in the cases of Iran and the Philippines, see the contributions of Richard Cottam and Richard Claude to this volume. Still another aim of terminating aid, or severing all relations with governments with poor human rights records, may be to disassociate the United States from those governments. On this view, the termination of assistance is not necessarily associated with the expectation that it will improve the rights situation of foreign nationals.

16. Christian Wolff, a natural law theorist who is regarded as among the first to have written a treatise on international law which explicitly recognized a general rule of nonintervention, at one point asserts that "nations are regarded as individual free persons living in a state of Nature . . . . Therefore . . . nations
also must be regarded in relation to each other as individual free persons living in a state of nature." Christian Wolff, *Jus Gentium Methodo Scientifica Pertractatum*, 1764, trans. by Joseph H. Drake (Oxford: At The Clarendon Press, 1934), Prolegomena, section 2. In a later passage, Wolff draws the following analogy: "[I]ust as by force of natural liberty it must be allowed to every man that he abide by his own judgment in acting, consequently also in the exercise of his right, as long as he does nothing which is contrary to your right, so likewise by force of the natural liberty of nations it must be allowed to every one of them to abide by its own judgment in the exercise of sovereignty" (chapter II, section 255).


17. An argument along these lines is suggested by Benn and Peters, p. 361.

18. According to Wolff, "since civil sovereignty arises from the stipulation by which men have united into a state and by force of which individuals have bound themselves to the whole, because they desire to promote the common good; the obligation of individuals has regard only to the whole; and the right of the whole over individuals, which is sovereignty, belongs only to the whole, who have contracted one with the other; consequently there is absolutely no natural reason why a certain nation should share any of this right with another nation" (Wolff, chapter II, section 255).

Vattel, a follower of Wolff, states that "liberty and independence belong to man by his very nature, and . . . they cannot be taken from him without his consent. Citizens of a state, having yielded them in part to the sovereign, do not enjoy them to their full and absolute extent. But the whole body of the Nation, the State, so long as it has not voluntarily submitted to other Nations, remains absolutely free and independent." Ermirich de Vattel, *The Law of Nations or the Principles of Natural Law*, 1758, trans. by Charles G. Fenwick (Washington: The Carnegie Institution of Washington, 1916), Book I, Introduction, section 4.


21. In the course of a discussion of conscientious refusal in time of war, Rawls asserts that it should be possible "to relate the just political principles regulating the conduct of states to the contract doctrine and to explain the moral basis of the law of nations from this point of view" (p. 377). However, Rawls does not attempt systematically to carry out this project in *A Theory of Justice*. For some insightful suggestions along these lines, see Charles R. Beitz, "Justice and International Relations," *Philosophy & Public Affairs*, No. 4 (Summer 1975), 360-389.

22. One might suggest another alternative: The parties to the hypothetical contract are to be thought of as individuals who do not assume that the world is or should be divided up into independent nation-states. As Barry observes, this would leave open the question whether nation-states should be "the units within which 'principles of justice' operate." Brian Barry, *The Liberal Theory of Justice* (Oxford: Clarendon Press, 1973), p. 129. I think that this is an important point, but I cannot pursue it further here.

23. The veil of ignorance does not exclude what Rawls refers to as "general facts." The parties to the contract "understand political affairs and the principles of economic theory; they know the basis of social organization and the laws of human psychology . . . . There are no limitations on general information, that is, on general laws and theories . . . ." (pp. 137-138). It seems plausible to claim that both of the propositions mentioned in (3) could be inferred from the sorts of "general laws and theories" which pass through the veil of ignorance.

24. It might be argued that the parties would recognize a rule which imposes an obligation on foreign governments, or on an international organization, to intervene in certain specific circumstances.


27. Ibid., p. 258.


29. Ibid., p. 258.

30. Ibid., p. 258-260.


32. One might claim that the prospects of "impartiality" would be significantly enhanced by entrusting decisions to intervene to an international organization like the United Nations. But, given the realities of international politics, this remains doubtful. Moreover, the prospects that intervention on behalf of human rights would ever be approved might then be seriously reduced.


34. It is beyond the scope of this discussion to formulate a list of "human rights," or to determine which rights U.S. foreign policy should promote. Other essays in this volume address these important issues.