

# Precedent and Example in the International Arena

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*When a man commits himself to anything, fully realizing that he is not only choosing what he will be, but is thereby at the same time a legislator deciding for the whole of mankind – in such a moment a man cannot escape from the sense of complete and profound responsibility.... Everything happens to every man as though the whole human race had its eyes fixed upon what he is doing and regulated its conduct accordingly.*

—Jean-Paul Sartre, “Existentialism Is a Humanism”<sup>2</sup>

*It is not in the American national interest to establish pre-emption as a universal principle available to every nation.*

—Henry Kissinger, August 11, 2002<sup>3</sup>

What is most troubling about U.S. foreign policy today is the example that it holds up to the world and the precedent that it sets, conjoined with its disregard for the significance of both example and precedent. The United States legislates, dangerously, for the whole of humankind, while simultaneously refusing to acknowledge that role—thereby escaping, as Jean-Paul Sartre says one cannot do, from its “complete and profound responsibility.” Of course, states and their governments are not in every way analogous to individual human beings. But in the most important respects, governments are agents whose actions and policies have just the kind of precedential and exemplary significance that individuals’ actions do—even more so, I shall argue, because of their inescapably public nature.

Sartre's claim that every agent legislates for all humanity derives from the "Categorical Imperative," Kant's fundamental principle of morality. According to Immanuel Kant, an agent ought to "act only according to that maxim by which. . . [one] can at the same time will that it should become a universal law."<sup>4</sup> This formulation of the Categorical Imperative (one of three that Kant offers) has been subjected to much scrutiny over the years. Contemporary philosophers have found it difficult to interpret it in a way that achieves everything Kant intended. Yet the germ of Kant's idea captures something that goes deep in our thinking about the moral requirements of conduct, and the same or similar conceptions can be founded in a variety of other moral theories and systems. The intuitive idea is that in deciding how to act, an agent must consider whether he would be willing for everyone to act according to the same principle (Kant used the term "maxim"). At the very least, unless an agent is willing to accept the universal adoption of his principle of action, the action is impermissible.<sup>5</sup> Universalizability should be understood in terms of consistency: What's right for me is right for anyone similarly situated.

Sartre appears to be expressing the same idea. But whereas Kant argues that one *ought* to employ the Categorical Imperative—acting only on those principles which one would be willing that everyone act on—Sartre makes the bolder point that whether we like it or not, whether we choose it or not, in acting we *inevitably* legislate for all of humanity.<sup>6</sup> My action sets an example; what I do others will conclude that they may do too.

Why does my action set an example? Why this inevitable universalizing feature? Lying behind the universalizability requirement is a postulate of human equality. No

person can claim a privilege to act simply by virtue of who he or she is; no one can set himself or herself apart as a special case. If I am justified in acting in a certain way it's because of features of my situation that, if possessed by others, would justify them in so acting as well. These "features of the situation"—the phrases "anyone in the same circumstances" and "anyone similarly situated" get at the same idea—are embodied in the principle or maxim implicit in one's proposed course of action.

Two questions immediately confront us. The first concerns the analogy between states and individuals. Is it plausible to think that nation-states, or their governments, are moral agents subject to the requirement of universalizability in the way we suppose individuals are? The second is a question familiar to students of Kant. Assuming we can make the analogy between states and individuals, how do we identify the maxim or principle according to which a state acts? More specifically, what is the maxim or principle that correctly characterizes the pre-emptive military intervention characteristic of current U.S. foreign policy? I begin with the second, more concrete question before turning to the first.

### **Possible Principles of Action**

What principle does the U.S. government invoke or imply in its wars against terrorism and against Iraq? Students of Kant know that identifying the relevant principle at work in an agent's proposed course of action is rarely easy. Here are several possibilities, in increasing order of narrowness and specificity.

Principle One: *States may engage in wars of conquest.* This principle would represent a giant step backward into barbarism and would violate the UN Charter. It

would justify Hitler's launching of World War II and Saddam Hussein's annexation of Kuwait. Clearly this crude principle is not the one at work in U.S. foreign policy today.

Principle Two: *States may engage in preventive wars against those who might potentially attack them.* This principle narrows the scope of the policy to preventive acts against potential enemies. But it remains far too broad. During the Cold War it would have justified either a U.S. or a Soviet first strike against the other; today it would justify first strikes by India and Pakistan against the other. There are those troubling words "might" and "potentially." Depending on the degree of probability assigned and the length of the time frame, any state could use the principle to launch a war against its geopolitical adversaries. The deep problem with Principle Two is that it actually *makes* states into potential threats to each other by permitting preventive conquest of potential adversaries. Principle Two would lead to perpetual international conflict.

Principle Three: *States may engage in preventive wars against states possessing weapons of mass destruction (WMD).* This principle licenses pre-emptive attacks against the United States, the world's largest holder of nuclear weapons and poison gas. Clearly it is not what the current Bush administration has in mind.

Principle Four: *States may engage in preventive wars against rogue states possessing weapons of mass destruction.* The best definition of a rogue state is one that disregards principles of world order and international law and launches aggressive attacks against others, sometimes by covert means. The trouble with this definition is that once we show ourselves prepared to conquer nations we dislike, we become a rogue state with WMDs—hence a legitimate target of attack.

That is absurd, of course. We know we are not a rogue state—and we know that Iraq was. But how do we argue the case to states suspicious of U.S. motives? Without some neutral definition, “roguehood” is in the eye of the beholder. Who decides when another country’s “elected” leader is really a dictator and a rogue? Does India get to declare General Pervez Musharraf a rogue and attack him? Perhaps the decision could be made by some multilateral body, like the UN. Multilateralism might make Principle Four more palatable to the rest of the world, but it will certainly not be acceptable to U.S. interventionists. They do not want a worldwide referendum on Iraq’s rogue status.

Principle Five: *Superpowers may engage in certain actions that other nations may not, such as deciding which foreign regimes are rogue states and removing them.* If this is the principle according to which the U.S. acts, then it is committed to the following view: If X is a superpower, then X may engage in actions that other nations cannot. It just so happens that the U.S. is the only superpower in the world today, but that is incidental to the argument. The principle is a general one. It would apply to other superpowers if there were others, and it would hold if the U.S. were not a superpower. Perhaps the central question, then, is whether the U.S. would be willing to accept Principle Five if it were not a superpower. Clearly it would find Principle Five no more acceptable than 190 other states do at this moment.

Principle Six: *The U.S. may engage in actions that other nations may not, such as deciding which foreign regimes are rogues and removing them.* The presence of a proper name (the U.S.) tells us that with Principle Six we have left the realm of principle. According to this “anti-principle,” a double standard—one for the United States and one for the rest of the world—is the right standard, in keeping with “American

exceptionalism. Throughout history, realists remind us, the world's superpowers have invariably written their own rules; others go along because they have no choice. The U.S., according to this view, does not need a general principle. If it wants to choose governments for other countries, it has the right to do so. If other states claim the same right, they cannot have it.

Principle Six is not a principle but rather a straightforward rejection of the Kantian and Sartrean standpoints from which we began. But that is not enough to condemn it. Could this way of reasoning, and acting, be justified? It depends at least in part on whether the Kantian and Sartrean standpoints apply to anything other than individuals.

### **Are States Moral Agents?**

The question, then, is whether states can be moral agents subject to the demand that they conform their behavior to the requirement of universalizability. If not, the foregoing criticism of U.S. foreign policy is inappropriate and unjustified.

Consider two general arguments against the view that states can be moral agents. The first might be called the *anthropomorphism argument*: To believe that states can be moral agents is to attribute human qualities to nonhuman things. To be morally responsible requires, at the very least, having a mind, and states do not have minds.

This argument is flawed on several grounds. We often hold collective entities, such as corporations and agencies, responsible both morally and legally, although they too lack minds. The anthropomorphism argument, if taken seriously, would not permit us to hold any corporate entities responsible and would thus contradict important bodies of

law and common practice. If it were not possible to identify such corporate entities with the behavior of individuals, this argument would be worth taking seriously. But we can and do identify states and other corporate entities with the actions of particular individuals—typically their political and military leaders, their executives and chief officers, and sometimes others under their command who are responsible for making and carrying out decisions. Of course, it can be difficult to assign blame to particular agents, because responsibility is dispersed and diffuse. In the case at hand, we might disagree about who *all* the responsible agents are. But we will have no trouble agreeing about who *some* of them are.

The anthropomorphism argument is closely related to, and may ultimately depend on, the claim of methodological individualism, a view frequently discussed in the philosophy of the social sciences. According to methodological individualism, only individuals exist and all talk of corporate or group entities must be ultimately reducible to the language of individual behavior. We need not enter here into the debate about the merits this view, because the attribution of agency to states requires no more than the conjoined agency of individuals. States may be obscure entities, but the moral agency with which we are concerned here inheres in governments or regimes.

The more familiar argument for the belief that states (or governments or regimes) are not moral agents is realism, or *Realpolitik*. Realism says that morality is irrelevant to the conduct of states, and that moral criticism and evaluation are therefore also irrelevant. Realism comes in two varieties, which are not often clearly distinguished. According to the first, states *do not* act on the basis of moral considerations. According to the second, states *ought not* act on the basis of moral considerations.

No one would dispute that there is much truth in the first claim. States typically, if not always, act on the basis of their perceived national interests, and moral considerations play, at best, a distinctly secondary role. This fact does not, however, let them off the moral hook. Some individuals act mainly or purely on the basis of their perceived self-interest, but we do not think that they are thereby relieved of moral responsibility.<sup>7</sup>

Implicit in the first realist thesis is an assumption about the motives of state actors. The question of motive—in state action as well as in individual action—is a complex and difficult one. How can we know an agent’s actual motives? Under what circumstances is it reasonable to expect an agent (whether an individual or a state) to act against self-interest? How do we factor into the moral equation the presence of multiple motives? These questions are fascinating and important, but attempting to answer them would take us beyond the scope of this essay. And they are not, I believe, ultimately relevant. We should for the most part ignore questions about the motives of states or governments and focus instead on the justifiability of their actions. From that point of view, the realist claim that states do not act according to purely moral considerations is irrelevant even insofar as it is true. Whatever their motives, the actions of states must be able to withstand moral scrutiny. Our interest is not in the moral virtue of states but in the legitimacy of their actions and policies.

This view may seem less plausible if we move from the first realist view to the second—from “States do not act on the basis of moral considerations” to “States ought not to act on the basis of moral considerations.” For it may seem odd to say simultaneously that an agent ought not to pay attention to certain sorts of considerations



(that is, moral ones) but that its behavior will be subject to evaluation on the basis of whether it conforms to such considerations. If indeed these two ideas are incompatible, that is sufficient reason to reject the second realist view. For nothing could be clearer than that we—individuals, governments, peoples everywhere—continually engage in the moral evaluation of the behavior of states and their governments. Both public opinion and international law hold states responsible for their actions. So either realism is false (on either of its two interpretations), or it is not incompatible with the requirement that states justify their behavior.

### **Are States Equal Moral Agents?**

Even if states are moral agents that must justify their actions, it might be argued that states are not equal in the way that we suppose individual human beings are equal, and that this inequality allows or even requires different standards for different states. These different standards apply both to states *as agents* and to states that are *acted upon*.

Evaluating this argument seems to presuppose that we have a good understanding of what it means to say that individual human beings are equal. But this claim is at best unclear and at worst untrue. We know that human beings are not equal along any dimension that we can name: strength, beauty, intelligence, energy, happiness, sociability, or accomplishment. Nor are they “morally equal” in the most obvious meaning of that term: that is, equally inclined to morally acceptable motives or behavior.

In light of these facts, philosophers typically analyze human equality in terms of the idea that human beings are entitled to “equal consideration” or to “equal concern and respect.” Equal consideration or equal concern and respect does not imply that all people

should be treated the same, but rather that treating people differently requires providing relevant reasons.<sup>8</sup> Treating a vicious murderer differently from a law-abiding citizen, treating a hungry person differently from a well-fed one are, on this analysis, compatible with treating people with equal concern and respect.

This is admittedly a thin conception of equality, one that does not imply egalitarianism in the usual sense and that is compatible with a great deal of inequality. Some will seek a more robust conception. But this one will suffice for our purposes. In demanding that different treatment requires relevant reasons, the principle of equal consideration is very close to (perhaps even identical with) the Kantian and Sartrean requirement of universalizability. In expressing one's principle of action, one is at the same time describing the circumstances under which actions of that kind are justified, for oneself and others. Making a distinction between two agents or two actions requires articulating a relevant difference (or more than one) between them.

What makes a difference relevant? Why should I be permitted to do this and you not? Why should the U.S. be permitted to act in this way and other countries not? We may despair of finding objective criteria of relevance. But the requirement that one be willing for all to act on the principle underlying one's own action is an excellent proxy. It requires only that one answer in good faith. As John Rawls explains, each "will be wary of proposing a principle which would give him a peculiar advantage, in his present circumstances. . . . Each person knows that he will be bound by it in future circumstances the peculiarities of which cannot be known, and which might well be such that the principle is then to his disadvantage."<sup>9</sup>

States, governments, and the peoples whom they govern are unequal in a variety of respects, as are individuals. They differ in physical size, population, riches, power, culture, and technological advancement. Perhaps most important for our purposes is that some states are illegitimate, by virtue of the relationship that they have (or lack) to the people within their borders. Although a democratic form of government is not a necessary condition of legitimacy, some degree of popular support is.<sup>10</sup> Illegitimate states lack the rights of political sovereignty and territorial integrity international law and custom normally accord states. Just as we may treat criminals, in light of their conduct, differently from other people, so we may treat illegitimate states differently from other states.

But facts such as these do not contradict the idea that the acceptability of a state's proposed course of action must be decided by articulating the principle underlying its action and seeing whether it can be universalized. The illegitimacy of a state, for example—either one that acts or one that is acted upon—will figure in the principle of action. The inequalities between states that make a moral difference are not left out of account in reckoning the legitimacy of actions and policies—*by* states and *toward* states.

This view may appear to suggest a reified conception of states, or one that accords them undue respect. According to the criticism, the analogy between states and individuals is at best highly misleading. Even though differences between individuals justify differences in their treatment, still there is a sense in which individuals possess some kind of inviolability that states do not. What Michael Walzer calls the “legalist paradigm,” according to which states possess rights to political sovereignty and territorial integrity, is on this critical view misguided and mistaken. The legalist paradigm is

enshrined in Article 2 of the UN Charter, which asserts the “sovereign equality” of member states and their right to territorial integrity and political independence. From the legalist paradigm it follows that states may do what they like within their own borders, or at the very least that outsiders have no right to intervene. But according to this critical view state sovereignty is, if not altogether an illusion, at least an exaggeration. If this is so then the notion of states as entities like individuals who are presumptively equal is also a mistake. How then can one make the analogy on which this argument rests?

I agree with those who believe state sovereignty is overrated as a morally basic concept.<sup>11</sup> At best, state sovereignty is a useful proxy for the rights that a state (in effect, a government or regime) holds in virtue of its relationships with those within its borders—specifically, for the principle of nonintervention in that state’s internal affairs. The more positively a regime is related to its people, the more it makes sense to say that state is sovereign and possesses a right to non-intervention. A democratic state is more positively related to its people, we may suppose, than an undemocratic state. But the term “democratic” covers a multitude of possibilities that themselves vary in ways relevant to sovereignty. More fundamentally, the degree of a state’s sovereignty, and thus the extent to which the principle of non-intervention holds with respect to it, depends upon how much the regime reflects the ability of people within its borders to choose freely—or determine themselves—consistent with the rights of others. I return to this point in the last section.

## Principle and Prudence

Kant's Categorical Imperative has counterparts in other moral theories, and it resonates with popular ideas like the "golden rule." It is not an exaggeration to say that something similar to this core idea can be found in most moral systems.

The core idea is sometimes summed up in the question, "What if everybody did that?" The hard work, Kant shows, is to figure out what the *that* refers to. As we have seen, the description of the *that*—the appropriate principle underlying what one proposes to do—has important implications for the legitimacy of the action or policy in question.

"What if everybody did that?" suggests another central issue as well. A common answer is that not everybody will. Although this response did not impress Kant, or many who are sympathetic to his approach, others of a more practical bent have found it worth taking seriously. If the act that I am proposing will not affect what others do, why should I be moved by the argument that *if* others did it the consequences would be unacceptable? If everybody plucked flowers from the public garden, the garden would have no flowers—a result, we may suppose, that is unacceptable to me. But what if I can be confident that most people will not follow my example, and that my flower plucking makes little difference to the garden's beauty and well-being?

We know Kant's answer: It's not a matter of mere consequences, but of consistency. It is wrong to treat yourself as special unless you can show that your circumstances are different in some relevant way—some way that legitimizes your acting in this way while others may not. The question is not whether people will actually follow your lead.

Still, when the hypothetical fails to be met (most people don't pluck the flowers from the garden), we may be less satisfied with the answer. This brings us back to a point hinted at earlier, which must now be developed. Kant insists that moral beings act only on those principles that they can universalize; or, in other words, that persons *ought* to act only on such principles. Sartre's idea is slightly different. He asserts that when a person acts, he *does*—whether he likes it or not—legislate for all humanity, and indeed that “Everything happens to every man as though the whole human race had its eyes fixed upon what he is doing and regulated its conduct accordingly.”

Such a statement sounds hyperbolic in the circumstances in which we are most likely to consider it. Most of the examples used to illustrate universalizability center on the private actions of individuals. The whole human race does not have its eyes fixed on a single individual in most of the circumstances in which he or she acts. And so we do not have to worry about the world regulating its conduct accordingly. Shall I (to use Sartre's famous example) join the resistance or stay home and take care of my aged mother? Shall I break my promise to meet my friend for lunch because a more attractive offer appears? Shall I walk across the lawn instead of on the path? Shoplift once in a while? Who will know?

Some will know, of course, and they may adjust their behavior accordingly. My loose attitude toward keeping promises may get around among my acquaintances, and they may take my promises less seriously or even take their own promises to me less seriously than they otherwise would have. But the idea that everyone everywhere—all of humanity—is watching closely and drawing conclusions from my behavior seems in these contexts absurd.

This is not so in the international arena, however, and certainly not in the era of instantaneous mass communications. What ancient Rome might have gotten away with Washington may not. Political action today takes place on a global stage. Everyone sees. And many ask, in the wake of American action, “What makes them different? What gives them the right to do this? If they can, why can’t we?”

It is possible that these observers are wrong. The U.S. might be relevantly different from other countries, so that it would be justified in acting in ways that they would not. Earlier we examined some possible grounds for differences and found them wanting; we will return to this subject again. Nevertheless, the highly public nature of international political and military action in contemporary times provides a powerful reason to proceed with the greatest of care—a reason over and above Kant’s purely moral one. Peoples and states around the world are suffused with the ideas of equality, self-determination, and national pride. To assert one’s own superiority and one’s rights to do what they may not is insulting and humiliating. Speaking purely in terms of consequences and not principles, it is hard to see how good can come of it.

No one likes to be confronted with another’s flagrant assertion of superiority, even if the assertion is warranted. Countries are no different, and it has always seemed surprising when U.S. leaders such as President George W. Bush think nothing of announcing that the country is “the greatest nation on earth” within earshot of the rest of the world. At the very least, it is bound to create animosity. What else we should say about it depends on what it means. That the U.S. is the richest? The strongest? These claims are true. But the suggestion is of something more: that we are morally superior, or somehow at least more important.

Similarly, when Washington's official policy asserts that "Our forces will be strong enough to dissuade potential adversaries from pursuing a military build-up in hopes of surpassing, or equaling, the power of the United States,"<sup>12</sup> it's not hard to see why other nations might object. That no one should be our superior may be an acceptable aim; that no one is permitted to be our equal—as asserted in the September 2002 "National Security Strategy"—is another matter.

"American exceptionalism," an idea often credited to Alexis de Tocqueville, has been defined as the view that "the United States was created differently, developed differently, and thus has to be understood differently—essentially on its own terms and within its own context."<sup>13</sup> The concept has been employed mostly to explain why throughout its history the U.S. has not had a significant labor or socialist movement.<sup>14</sup> One might complain that the claim of exceptionalism is confused. Every country is unique, after all. But perhaps some are more unique than others. In any case, U.S. exceptionalism has traditionally been employed as a way to explain why the country does not conform to explanatory models appropriate to other countries, not as a license for action. Today, however, U.S. exceptionalism seems to describe not so much the explanatory framework appropriate to understanding the historical development of the United States, but the moral rights ~~that~~ it has arrogated to itself.

## **Principles of Humanitarian Intervention**

An argument for military action in places like Iraq that we have not considered invokes a principle of what some call "humanitarian intervention." A rough approximation of such a principle might look something like Principle Seven: *States may intervene militarily in*



*the affairs of other states to prevent or end severe and widespread violations of human rights.*

We did not consider this principle earlier because it was not, according to credible accounts, the central reason for U.S. intervention in Iraq; rather it seemed to function as a by-product or perhaps a secondary reason. Up until the war began, the arguments made for intervention had to do primarily with U.S. national security and self-defense. More recently, however, the argument based on Iraqi liberation has assumed greater prominence as hard evidence for WMD and links to Al Qaeda has not materialized.

The humanitarian and prudential arguments are intertwined. Iraqi freedom and democracy are good not only for Iraqis but, as Washington now seems to argue, for U.S. interests as well. There are reasons to doubt the second claim. According to recent polls, more than 90 percent of the people in Arab and Middle Eastern countries are hostile to or disapprove of the United States.<sup>15</sup> If these states become more democratic, thereby better representing popular opinion, it is not easy to see how narrowly defined U.S. interests will benefit. Leaving this large problem aside, few would disagree that Saddam Hussein was a brutal and repressive tyrant responsible for gross violations of human rights. Two conclusions seem to follow: that the Iraqis would be well rid of Saddam Hussein and that he has no right to rule Iraq.

Many liberals who favored military action in places like Bosnia, Kosovo, Somalia, and Rwanda found themselves forced to refine their understanding of the principle of humanitarian intervention when it came to Iraq. If Saddam Hussein was so bad, why was war not justified to overthrow him? If liberal distrust of the Bush administration about Iraq was justified, what did that say about the legitimacy of the

principle of humanitarian intervention? Was liberal hypocrisy at work in the decision about which oppressive states to fight?

At least two factors underlay the widespread doubts about humanitarian intervention as a principle justifying war in Iraq. One had to do with motive, the other with the prospects of success. These doubts too are intertwined.

Many people here and abroad doubted that humanitarian considerations were the primary or even a significant motive in the decision to invade Iraq. Let us suppose that their skepticism was justified. What difference does this fact make? I argued earlier that it is extremely difficult at best to know the motives of states, and better for that reason and others to avoid inquiries that require knowledge of motives. Yet how can we decide whether the principle of humanitarian intervention would justify war in Iraq without knowing whether this was the principle—or at least *a* principle—underlying U.S. action?

To answer this difficult question it is helpful to examine the other source of doubt about the principle of humanitarian intervention, which concerns the prospects of success. Much has been written on this subject specifically about Iraq, and many people have argued that winning the war was the easiest part of the undertaking. Probably the two biggest problems cited are the inherent difficulty of imposing democracy, liberty, and respect for human rights from outside, and the negative effects of U.S. intervention on the beliefs and attitudes of people in Iraq and elsewhere in the region, and beyond. It is probably still too early to say whether or to what extent these fears will be borne out sufficiently to undermine any potential positive effects of intervention.

Such concerns make clear that an acceptable principle of humanitarian intervention must be more refined than the crude one proposed as Principle Seven. For

one thing, the probability of success must be fairly high to justify intervention. Thus, the agent must have weighed the risks and costs of intervening against the benefits and must have been warranted in concluding that the benefits outweighed the risks. That in turn requires a firm commitment on the part of the agent to ensure that the risks of failure do not come to pass. So, for example, if one's aim were to bring democracy to a region where democracy has not existed, a long-term commitment to nation-building would seem to be required.

Even if a state would be well rid of its leader and even if he has no right to rule (certainly true of Iraq and Saddam Hussein, respectively), it does not follow that all things considered it would be sensible to intervene militarily to bring about the dictator's downfall and other desired outcomes. An enormously significant factor is the will of the people in whose country one is proposing to intervene. In the paradigm case of justified intervention, oppressed or persecuted people seek help from sympathetic outsiders to help determine their destiny. Of course, when people are sufficiently oppressed and persecuted, they will not necessarily be able to communicate their wishes freely, making it difficult to discern their will. But a central question must always be whether the people inside desire the involvement of outsiders. If they do not, the term "humanitarian intervention" will be highly suspect.

These considerations help to bridge the gap between the two concerns raised by critics of such humanitarian intervention, motive and probability of success. We should not judge the legitimacy of a state's action based on its motives, but its motives will inevitably figure indirectly into the principles that characterize its actions.

In light of these remarks, a better principle than Principle Seven would be Principle Eight, which adds a crucial clause: *States may intervene militarily in the affairs of other states to prevent or end severe and widespread violations of human rights, when they have very good reason to believe that the benefits of intervention will outweigh the costs.* A full understanding of the meaning of this principle would require spelling out the possible benefits and the possible costs, among other things. There will be disagreement here both about their nature and about their probability. In addition, the agent must have *good reason to believe* the benefits will outweigh the costs—an objective condition that must be satisfied.

This statement of the principle is attractive partly because it avoids the need to inquire directly into the motives of agents while building in the relevant questions in an appropriate way. If the U.S. had good reason to believe that the benefits of intervention outweighed its costs (and assuming we could reach agreement on the meaning and truth of this claim), it would have been justified in invading Iraq, whether or not humanitarian intervention was its motive. Principle Eight satisfies (or in any case comes closer than any of the other principles to satisfying) both Kant's question, and Sartre's: What if everybody did that? What if everybody saw you doing that?

## Notes

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<sup>1</sup> I am grateful to David Luban and Sam Kerstein for comments and suggestions on an earlier draft.

<sup>2</sup> Quoted in Walter Kaufmann, ed., *Existentialism from Dostoevsky to Sartre* (Cleveland: Meridian Books, 1956), pp. 292-3.

<sup>3</sup> Henry Kissinger, "Iraq Is Becoming Bush's Most Difficult Challenge," *Chicago Tribune*, August 11, 2002.

<sup>4</sup> Immanuel Kant, *Foundations of the Metaphysics of Morals*, tr. Lewis White Beck (Indianapolis: Bobbs-Merrill, 1959), p.421.

<sup>5</sup> Kant intended the categorical imperative in a stronger sense. He believed that for some actions, "their maxim cannot even be *thought* as a universal law of nature without contradiction"; for others, although "this internal impossibility is not found. . .it is still impossible to *will* that their maxims should be raised to the universality of a law of nature" (Ibid., p.424). These are very strong claims, in keeping with Kant's aim of establishing objective moral requirements. As many commentators have argued, it doubtful that they can be met. A weaker, more subjective interpretation that nevertheless has important implications for morality is the one given here, according to which agents must assess the legitimacy of their actions by their willingness to accept the universalized versions of the maxims that describe their reasons for acting.

<sup>6</sup> The existentialists' emphasis on the centrality of choice may seem to make this interpretation implausible. But that conclusion fails to appreciate existentialism's central paradox that the only thing you can't choose is not to choose; you have no choice but to choose. "Man makes himself. . .by the choice of his morality, and he cannot but choose a morality, such is the pressure of circumstances upon him" ("Existentialism Is a Humanism," p. 306).

<sup>7</sup> Some argue the precise analogue of the realist thesis with regard to individuals. Psychological egoism is the claim that individuals always act only to advance their own perceived self-interest. Philosophers have argued convincingly that this view is either tautological or false.

<sup>8</sup> Our focus here is on public policy and not all forms of interpersonal behavior. Perhaps a person doesn't need a reason to treat one friend differently from another (although from a certain point of view having a reason to act differently in one case rather than another seems almost a requirement of rationality).

<sup>9</sup> John Rawls, "Justice as Fairness," *Philosophical Review* 67, no.2 (April 1958), pp. 164-194.

<sup>10</sup> For a discussion of this view see Michael Walzer, *Just and Unjust Wars*, 3d ed. (New York: Basic Books, 2000), pp. 61-62.

<sup>11</sup> See David Luban, "Just War and Human Rights," *Philosophy & Public Affairs* 9, no. 2 (Winter 1980), pp. 160-181; and Allen Buchanan, *Justice, Legitimacy, and Self-Determination: Moral Foundations of International Law* (New York: Oxford University Press, forthcoming).

<sup>12</sup> National Security Strategy of the United States of America, at <http://www.whitehouse.gov/nsc/nss9.html>.

<sup>13</sup> Byron Shafer, ed., *Is America Different?* (New York: Oxford University Press, 1991), p. v. See Alexis de Tocqueville, *Democracy in America*, volume II, (New York: Random House, Inc., 1970) pp. 36-7. "The position of the Americans is therefore quite exceptional, and it may be believed that no democratic people will ever be placed in a similar one. Their strictly Puritanical origin, their exclusively commercial habits, even the country they inhabit, which seems to divert their minds from the pursuit of science, literature, and the arts, the proximity of Europe, which allows them to neglect these pursuits without relapsing into barbarism, a thousand special causes, of which I have only been able to point out the most important, have singularly concurred to fix the mind of the American upon purely practical objects. . . .Let us cease, then, to view all democratic nations under the example of the American people, and attempt to survey them at length with their own features." I thank Laura Hussey for directing me to this passage and for help on this section.

<sup>14</sup> See Seymour Martin Lipset, *American Exceptionalism A Double-Edged Sword* (New York: Norton, 1997).

<sup>15</sup> See Shibley Telhami, "Arab Public Opinion—A Survey in Six Countries," *San Jose Mercury*, March 16, 2003.