

# Judging Armed Humanitarian Intervention<sup>1</sup>

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Political commentators, and the general public, frequently express scepticism concerning the explanations given by states for engaging in ‘humanitarian interventions’, often attributing to the interveners rather more self-interested reasons for action than those offered by the interveners themselves. Underlying this scepticism, and reflected in the philosophical literature, is a concern that an otherwise permissible instance of intervention might be rendered impermissible if the intervening state’s motivations are not genuinely humanitarian.

In this paper, I argue for what I call the *justification-based* account of humanitarian intervention, according to which the permissibility of humanitarian intervention is determined by two central criteria. The first is that there exists a sound justification for intervention – roughly, that there is a threatened or ongoing process of widespread serious rights violations that can be averted only by military force and such force is proportionate. This criterion can be satisfied *ad bellum*.

The second criterion is that the actions of interveners are reasonably expected to aid. This criterion applies largely to the *in bello* behaviour of the intervening state. I defend the priority of this criterion against Alex Bellamy’s suggestion that the intentions of interveners are central to the permissibility of intervention. I suggest that both intentions-based and motives-based views wrongly prioritise the moral character of the intervener over the interests of the potential beneficiaries of intervention. This is not to deny that intentions or motives are ever relevant to permissibility, but to make the more limited claim that in

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situations in which one can act to avert significant suffering, imperfect intentions or motives do not render so acting impermissible.

### **I. What is a humanitarian intervention?**

Two broad ways of approaching the debate about how to identify humanitarian interventions have emerged from the literature. The first views the term ‘humanitarian intervention’ as morally loaded, such that a use of force in a crisis must be legitimate (however we judge that) in order to count as a humanitarian intervention. On this view, a use of military force that fails to fulfil the relevant criteria for permissibility is not an illegitimate humanitarian intervention, but no humanitarian intervention at all. Bhikhu Parekh, for example, argues that an intervention in a crisis counts as humanitarian only if it is “wholly or primarily guided by the sentiment of humanity, compassion or fellow-feeling, and in that sense disinterested” and “is intended to address what is regarded as a violation of the minimum that is due to human beings.”<sup>2</sup> For Parekh, these features are our criteria not only for judging the permissibility of humanitarian intervention, but for judging whether a use of force qualifies as a humanitarian intervention at all.

The second approach claims that the use of military force in a crisis can count as a humanitarian intervention, and yet still be illegitimate or impermissible. Private wars might be captured by this approach. If Bill Gates hires an army to curtail human rights abuses in Darfur, we might describe this as a humanitarian intervention, but deem it an illegitimate intervention, perhaps because we think that private individuals such as Gates should not be using military force to achieve even good ends. Alex Bellamy adopts an approach along these lines, asking “what it is that makes a particular intervention ‘humanitarian’ and therefore

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<sup>2</sup> Bhikhu Parekh, ‘Rethinking Humanitarian Intervention’, *International Political Science Review*, (1997) 18, No. 1, pp. 55 – 74, pp. 54 - 55

potentially legitimate”.<sup>3</sup> On this view, whether a use of force is an example of humanitarian intervention is conceptually independent of whether it is morally permissible.

In this paper, I assume that the second of these two approaches is correct: that whether a use of force is a humanitarian intervention is independent of whether it is permissible. My interest will be in how we judge this permissibility, and I will focus on the moral, rather than legal, dimension of permissibility.

## **II. Judging Permissibility**

### **(i) Motives versus outcomes**

Whilst accounts of the permissibility of intervention are often pluralist, in that they allow that various factors might affect the legitimacy of an intervention, most identify one central factor as the primary criterion of permissibility. Bellamy argues that much of the debate on intervention has focused on the division between those who identify motives as paramount, and those who identify outcomes as paramount.<sup>4</sup> As we’ve just seen, writers such as Parekh argue that it is motives that are crucial: interventions *just are* disinterested uses of force inspired by compassion and a desire to aid those in need.

Others reject this focus on motive: Michael Walzer, for example, claims that whilst an intervening state must “to some degree” share in the ends of the people whom it is supposed to be aiding, and ought not to behave in ways that thwart those ends, it is not crucial for permissibility that humanitarianism is the “chief consideration” of the intervening state.<sup>5</sup> Some scholars replace the focus on motive with a primarily outcome-based evaluation of intervention. One of the most prominent defenders of this view, Fernando Téson, argues that, at least sometimes, we can judge interventions by their results – by whether they do in fact

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<sup>3</sup> Alex Bellamy, ‘Motives, Outcomes, Intent and the Legitimacy of Humanitarian Intervention’, *Journal of Military Ethics*, (2004), Vol. 3, No. 3, pp. 216 – 232p. 221

<sup>4</sup> Bellamy, p. 221

<sup>5</sup> Michael Walzer, *Just and Unjust Wars*, (Basic Books, 1977), p. 104

halt or mitigate humanitarian abuses. So, on this account, even if the US's invading of Iraq in 2003 was motivated by a dislike of Saddam Hussein and a desire to secure access to oil, it could still have turned out to be a legitimate humanitarian intervention if getting rid of Hussein secured some proportionate humanitarian good.

Bellamy argues that this dichotomy between motives and outcomes is mistaken. Proponents of the motives view often conflate motives with purposes. But, he thinks, motive and purpose can come apart. We can talk about what one is trying to do, without talking about why one is trying to do it. One might use force for the humanitarian purpose of protecting some ethnic group abroad, whilst being motivated by a desire to increase one's political popularity with members of that group at home. Bellamy argues that because of this conflation, some writers are mistakenly adopted by the motives camp when they are in fact identifying purpose as the crucial factor in permissibility. He claims, for example, that Parekh 'erroneously implies' that the writer Will Verwey "demands purity of motives", when Verwey's account stipulates only that the sole *purposes* of force should be humanitarian.<sup>6</sup>

## **(ii) Intentions**

Bellamy argues that whilst purpose gives us a third category of evaluation, thus undermining the motives / outcomes dichotomy, those writers who make use of purpose in their work do so only vaguely, without explaining how one might judge what a state's purposes are. He suggests that we can better illuminate the debate if we substitute intention for purposes, perhaps not least because the criterion of right intention has an established place in traditional just war theory. Drawing upon the work of Augustine, Bellamy argues that right intention is

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<sup>6</sup> Bellamy, p. 222

the pivotal factor in determining the legitimacy of an intervention: we must judge whether “the intervener *intended* to prevent or halt an injustice and promote peace.”<sup>7</sup>

Although we can never be entirely sure that we have correctly judged intentions, Bellamy argues that we can reliably assess them by (a) examining the state’s given reasons for intervening, and comparing them with other possible explanations, and (b) examining the way in which the state plans and executes its intervention.<sup>8</sup> To achieve the latter, he combines Aquinas’s modifications of the Doctrine of Double Effect with Walzer’s notion of ‘double intent’. Whereas Augustine held that harms were permissible if they were foreseen but unintended, Aquinas argued that, in addition, these harms must be outweighed by the good being pursued. This revision – essentially a proportionality requirement – places restrictions upon the means that may be employed by those seeking even a good end: combatants cannot cause unlimited destruction provided that the destruction is merely a foreseen side-effect. This restriction enables the intentions-based account to acknowledge the importance of outcomes, but still hold outcomes secondary to intent.<sup>9</sup>

According to Walzer’s notion of ‘double intent’, combatants do not count as satisfying the requirement of discrimination just in case they cause only foreseen but unintended harm to non-combatants.<sup>10</sup> Nor is it enough that the harm done is proportionate to the good end. Rather, combatants must demonstrate a further “positive commitment” to protecting non-combatants, manifested by going out of their way to take measures that minimise the risks to non-combatants, even (or especially) where this involves shouldering

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<sup>7</sup> Bellamy, p. 227

<sup>8</sup> I’ll use Bellamy’s terminology of ‘state intentions’ here, but, for me, this is shorthand for the ‘intentions of the state’s leaders’.

<sup>9</sup> One might, for example, cause more harm as than one averts (perhaps killing an attacker to avoid paralysis to oneself). The outcome of defending oneself is thus more harmful than not defending oneself. But the harm inflicted upon one’s attacker as a side-effect of saving oneself is unintended, and thus counts for less. The outcomes are not irrelevant – one cannot kill an attacker to save oneself a broken toe – but they are secondary to what is intended.

<sup>10</sup> Walzer, pp. 155 - 156

greater risks themselves.<sup>11</sup> If a commander has two strategies that are equally likely to achieve a military goal, but one will protect his troops and endanger non-combatants, whilst the other protects non-combatants but endangers his troops, he is required to choose the strategy that protects the non-combatants. Bellamy argues that by looking to see whether combatants engaged in a humanitarian mission adhere to this requirement, we can judge whether their state is really acting with humanitarian intent.

Bellamy claims two main advantages of the intention-based view. First, he argues that our right to intervene in other states, ostensibly breaching their sovereignty, is a “limited right” that obtains when we need “to save strangers in dire need”.<sup>12</sup> It is therefore “logically necessary that acts legitimised by the exception have a humanitarian intent: that is, the act must intend to do what the exception permits.”<sup>13</sup> It is, he says, “the intent of the intervener, not the ostensible humanitarian outcome [...] that the limited norm of humanitarian intervention legitimises.”<sup>14</sup> The second advantage is that the intentions-based approach reduces the likelihood of “the military means chosen by the intervener undermining the desired humanitarian ends.”<sup>15</sup>

### **III. *Ad Bellum* Intentions**

I think we should be sceptical both of Bellamy’s methods of assessing intention and, partly as a result of this scepticism, the plausibility of the using intentions to assess the permissibility of humanitarian interventions. Let’s start with the *ad bellum* intentions.

#### **(i) State intentions**

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<sup>11</sup> Walzer, p. 156

<sup>12</sup> Bellamy, p. 229

<sup>13</sup> Bellamy, p. 229

<sup>14</sup> Bellamy, p. 230

<sup>15</sup> Bellamy, p. 230

There is of course the general problem that arises in talking of a state's intentions which Bellamy does not address – namely, that a state is an abstract entity that has no intentions at all. It is, presumably, the intentions of the leaders that are under scrutiny here. But there is no guarantee that the intentions of this group of people will converge. Imagine a British Cabinet considering intervening in Kosovo. The Prime Minister might generally dislike Serbs, and be glad of the opportunity to do some Serb-bombing. The Defence Minister might intend to use the intervention as a lengthy training exercise for the British armed forces, thinking it good practice for a proper war. Perhaps it's also a chance to test some new equipment or technology. The Foreign Minister might intend only to bring humanitarian aid. All favour the intervention, but their intentions differ significantly. Whose intentions matter? Assuming that the Prime Minister cannot act without the support of her Cabinet, all the intentions play a role in bringing the intervention about. It's not clear, then, how we can sensibly speak of 'the' intention behind the intervention. I am not wholly sceptical of the role of intentions in determining permissibility when it comes to individual actions, but it is at least considerably harder to rely on them when assessing the permissibility of an action or series of actions initiated and steered by a group of people. This is not merely because of the difficulty of establishing intentions, which increases as one increases the number of relevant people. It's also because when we have multiple intentions, there's no clear way of ranking or reconciling those intentions, such that we can identify a single intention by which we can judge an action's permissibility.

## **(ii) Intentions and justifications**

Moreover, a closer look at Bellamy's suggestions for establishing intention shows that intention is not as easy to establish as he believes. His first suggestion is that one might "analyse" a state's reasons for acting, where this is achieved in part by "comparing the

justifications it gives with other possible explanations of its actions.”<sup>16</sup> It is not made clear how Bellamy is conceiving of the relationship between intentions and justifications, but they seem to me to be different things, likely to elicit different commentaries.

For example, a state may say that it intends to mount an aerial bombing campaign in particular areas of the target state in order to disable certain parts of the state’s infrastructure, followed by a ground offensive in which it aims to capture or kill certain groups or persons. It may say that its intention in so doing is to eliminate a threat to (a group of) civilians, and restore stability in the state. This is a description of the state’s intentions, in terms of both what it intends to do, and what it intends to achieve by doing those things.

But it *is* purely descriptive. The justification of those actions, in contrast, will surely tell a different, normative story. Saying that one plans to eliminate a threat and restore stability is not enough to turn a description into a justification. The justification will have to include various other claims, such as that the threat in question constitutes a serious violation of important rights, that the proposed force is a proportionate means of halting that violation, that it is the most effective way to achieve it and that alternative, non-military methods are not available. And none of these claims, which are the meat of any justification for military action, depend for their truth upon the intentions of the intervening state. It may be the case that the intervening state is merely seeking to assert its military power in the region, deterring potential aggressors. But this will not affect whether the proposed intervention is a proportionate means of halting the rights violations. Nor will it affect whether the threat posed to the potential beneficiaries is grave, whether the action is a last resort and so on. An analysis of an offered justification, therefore, need not shed any light on intentions. What it will do is put forward reasons for intervening, the weight of which can be assessed

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<sup>16</sup> Bellamy, 2004, p. 227



independently of whether they are the reasons upon which the state's leaders are acting, and the soundness of which does not depend upon the leaders' intentions.

### **(iii) Establishing intentions by comparison**

The second component of analysis is comparative – Bellamy suggests that the proffered justification should be compared with other possible explanations. The idea is that if there exists an alternative possible explanation that would also explain the state's willingness to intervene, and this explanation has a goal of national interest rather than humanitarian beneficence, then it is reasonable to assume that it is the self-interested goal that the interveners intend to bring about: the comparison can tell us whether the state “is merely offering a pretext for action”.<sup>17</sup> If so, Bellamy thinks that the intervention is “inspired by egoism rather than right intent and cannot, from this perspective, be justified.”<sup>18</sup>

But this kind of comparative evaluation, which for Bellamy speaks not just to our assessment of the blameworthiness of the actors but also to the permissibility of their actions, is undesirable in at least two ways. If we cite intentions as crucial to the permissibility of purported humanitarian interventions, we surely want to base our judgments on the presence or absence of humanitarian intentions. But Bellamy's comparative evaluation makes the likelihood of finding in a state's favour contingent on factors other than whether it does in fact have humanitarian intentions.

Imagine that the proposed intervention is to take place in a country whose stability is regionally important, or that happens to be oil-rich, or where the dominant religion is hostile to the intervening state's dominant religion. Or perhaps the intervening state is due for an election, or has some new weapons it would like to test, or could use a war to assert their dominance in the region. Any of these facts could provide an alternative, prudentially-based

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<sup>17</sup> Bellamy, p. 227

<sup>18</sup> Bellamy, p. 227

explanation of the intervention. Indeed, in almost any situation in which an intervention seems necessary, there are likely to be possible alternative explanations of using force that are self-serving rather than humanitarian in nature. The mere existence of these alternatives undermines, in Bellamy's view, the plausibility of the intervening state's acting for humanitarian reasons, irrespective of whether or not they are the reasons for which the state acts.

In addition, some of these features, such as being oil-rich, are pretty inescapable properties of some states, and thus these self-interested explanations will always be possible and perhaps always plausible when considering interventions in these states. On Bellamy's account, this seems to preclude its being permissible to intervene in such a state, no matter how dire the humanitarian situation. But we should not prohibit interventions that could rescue people from harm simply because a state that is prepared to intervene has various possible grounds for doing so, and its intentions may or may not be humanitarian. And, we should not make it harder to mount a case for intervening in some states compared with others in virtue of that state's having certain natural properties.

What we need to know, if we favour the intention-based view, is not whether the state has sufficient alternative reasons for acting, but whether it is acting for humanitarian reasons. But how would one go about analysing or judging which reasons are really operative at the *ad bellum* level? I contend that one cannot establish, simply by way of comparison, that an offered justification does not reflect the leaders' intentions. It seems to me that, setting aside the question of consent, all one can do to judge the permissibility of the intervention at the *ad bellum* level is assess the soundness of the offered justification independently of whether or not the state might have other, prudential reasons to intervene. And, I suggest, if the reasons given would in fact justify intervention, it does not matter whether or not they reflect the leaders' intentions. I return to this second point below.

But in general, the whole direction of Bellamy's concern seems mistaken to me. Either people are in need of rescue from an actual or impending catastrophe, or they are not. Whether they are or not is neither determined nor illuminated by examining the intentions of those who are well-placed to rescue them. If we care about their intentions, it should be only because of what they tell us about what the interveners are likely to do during the intervention: the kinds of strategies they are likely to adopt and so on. In Bellamy's account, the importance of rescuing the victims is completely overshadowed by his emphasis on the moral character of the interveners. When we think about the circumstances in which we might use force in another country, we must presumably begin by pointing to some kind of crisis that we think warrants intervention. But once this triggering condition is satisfied, Bellamy's attention shifts solely to facts about the intervening states.

Consider the Rwandan genocide of 1994. Imagine that State A, moved purely by the plight of the Tutsis, is willing to intervene to protect them. But State A is poor, with a fairly badly-equipped army. Its intervention will halt the genocide, but their more crude weaponry will cause much more collateral harm and take longer to secure the safety of the Tutsis, during which time some Tutsis will be killed. State B, in contrast, is rich and has a technologically advanced military that could quickly halt the genocide, with less collateral harm, saving many more Tutsi lives. But, State B's intention in intervening would be to give its troops some combat experience, and diminish the power of the Hutus in Rwanda, whom they've never liked much anyway. An account focusing on what motives the intervention, or what the interveners intend, seems committed to the view that not only would it be *better* for State A to intervene, but that only State A is *permitted* to intervene. It's hard to reconcile that result with a concern for the welfare of the Tutsis.

We should notice that these considerations tell equally against the motives-based view that Bellamy is criticising. Just as those governing a state may act with disparate intentions,

so they may pursue the same goal as a result of disparate motives. The mere existence of a range of possible motivations, such as benevolence, greed, power, racial enmity and so on, cannot tell us what in fact motivates an intervention. These possible alternative motives will be more readily available with respect to some troubled states rather than others, but that again does not in itself tell us what motivates an intervention. And, focusing on the motives of interveners to the exclusion of the suffering of the victims misidentifies the primary object of moral concern. Bellamy is right, then, to reject motives as the ground of permissibility, but wrong to think that intentions can play that role instead.

#### **(iv) Logical necessity**

What of Bellamy's claim that intention is essential in justifying humanitarian intervention because it is logically necessary that a state have humanitarian intentions if its intervention is to qualify as an exception to the usual rules on breaching sovereignty? Well, logical necessity is surely too strong here: it isn't part of the concept of a legal exception that one be intending to do what the exception permits. At best, the requirement of intention will be a contingent truth about this particular exception, if it turns out that those drafting the legislation, or those enacting it, have specified the exception in this way. But if things were so clear in the law, it's hard to see why there would be so much legal wrangling about the legitimacy of interventions. And, more importantly, there's no decisive reason to take this legal interpretation to be morally correct. Indeed, the currently prevalent view about sovereignty amongst moral philosophers is that a state's sovereignty is conditional upon its meeting and protecting its citizens' basic human rights. In the sorts of state in which we

might consider intervening, the state (or its leader) has failed in this obligation, and thus has no sovereignty that would be violated by an intervention.<sup>19</sup>

#### **IV. *In Bello* Intentions**

If we cannot reliably assess intentions, it's hard to see how they can help us to establish the permissibility of undertaking an intervention, at least if we want an account of permissibility that might be of some practical use, and could be used to guide legal deliberation. I have suggested that merely considering a state's given reasons for action does not reveal their intentions, and that relying upon a comparison with other possible justifications or intentions is unilluminating and undesirable.

But Bellamy thinks we can also evaluate intentions by looking at what a state actually does in the course of an alleged intervention. This is, *prima facie*, more promising (although it still won't help much with establishing permissibility prior to an intervention, being largely grounded in the state's *in bello* behaviour). A state that claims to intend to rescue people from serious harm, only to bomb the area where the alleged beneficiaries have taken refuge, clearly undermines its claims regarding its humanitarian intentions.<sup>20</sup>

##### **(i) Distribution of risk**

So, what is it about a state's actions, or the actions of its combatants, that we should consider when trying to establish their intentions? Bellamy combines Augustine's criterion of right intention with Walzer's double intent, which requires combatants to actively minimise harm

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<sup>19</sup> See, for example, Michael. J. Smith, 'Humanitarian Intervention: An Overview of the Ethical Issues', *Ethics and International Affairs* 12, No. 1, 1998, 63 – 79, and Larry May, 'The Principle of Just Cause' in Larry May (ed.) *War: Essays in Political Philosophy*, (Cambridge: CUP, 2008).

<sup>20</sup> It seems especially hard to insist upon intentions as central if I am right about the problems that attach to judging intentions *ad bellum*. If my objections are sound, Bellamy is left only with judging intentions *in bello*. But now we have an even greater number of people whose intentions must be considered. If we're to care about intentions when judging the permissibility of actions, surely our attention should fall primarily on the person or persons carrying out the action – in this case, the soldiers. The difficulties of identifying 'the' intention of the British Cabinet are only exacerbated when we try to identify 'the' intention with which the soldiers act.

to non-combatants. When combatants “take measures to ensure, as far as possible,” that they do not harm non-combatants, even when doing so exposes themselves to greater risk, we can infer that their intentions really are humanitarian.<sup>21</sup> Thus, the strategies employed by NATO in Kosovo revealed a lack of humanitarian intent, according to Bellamy, since “the selection of airpower alone rendered it almost impossible for it to halt the campaign of murder and ethnic cleansing.”<sup>22</sup>

I think there are several problems with relying upon Walzer’s criterion of double intent. One difficulty concerns the appropriate distribution of risk between combatants and non-combatants, especially in a war of humanitarian intervention. Jeff McMahan has argued that it can be permissible for a rescuer to shift the costs of rescue onto the beneficiary. Imagine that I can pull you out of a river, saving your life, but in doing so I must break either your wrist or my own. McMahan argues that, since it is you who will benefit from the rescue mission, it is permissible for me to make you bear the costs of that mission by breaking your wrist.<sup>23</sup> This seems to me to be correct. In addition, and germane to our purposes here, it would be very odd to claim that, if I distribute the costs of rescue in this way, my mission is no longer a humanitarian one – that I no longer count as having the intention or end of rescuing you. If this is right, it’s not clear why combatants should count as having humanitarian intent only if they are prepared to shoulder the costs of rescue themselves (insofar as doing so is compatible with the success of the mission). Perhaps they too can make the intended beneficiaries bear the costs of rescue without undermining their claim to be aiding those people.

A further problem is that Walzer’s notion of double intent is meant to bolster the ordinary double effect distinction between intending and foreseeing, giving a more

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<sup>21</sup> Bellamy, p. 227

<sup>22</sup> Bellamy, p. 227

<sup>23</sup> See Jeff McMahan, ‘The Just Distribution of Harm Between Combatants and Non-Combatants’, *Philosophy and Public Affairs*, Vol. 38, no. 4, (2010), pp. 342 – 379, p. 361

demanding an account of what it means for combatants to adhere to the requirement of discrimination between combatants and non-combatants. And yet, as I have argued elsewhere, there's no reason why those engaged in terrorist attacks could not meet the requirements of double intent.<sup>24</sup>

Imagine that a terrorist needs to kill fifty civilians in order to deter enemy munitions workers from returning to their factory. He knows that the local hospital has an average population of one hundred non-combatants during the day, and of fifty non-combatants during the night. He chooses to attack at night in order to avoid killing any more people than necessary to achieve his goal of terrorising the munitions workers. Couldn't this meet the requirement of seeking to minimise harm to non-combatants, to the extent that doing so is compatible with the success of his mission? Perhaps attacking at night is more dangerous for him, and so in choosing this alternative, he even accepts greater costs to himself in order to minimise non-combatant deaths. If the terror bomber has no other way to stop production at the factory (perhaps the factory is underground, and cannot be directly attacked), he is choosing the least harmful means available to him. Of course, we can still point to the difference in the terrorist's intention compared to that of an ordinary combatant who kills non-combatants as a side-effect. The terror bomber still intends to kill non-combatants - their deaths are part of his plan. But the extra requirement of minimising harm was introduced by Walzer precisely because the distinction between intending and foreseeing harm doesn't seem able to support the difference in permissibility on its own.<sup>25</sup>

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<sup>24</sup> Helen Frowe, *The Ethics of War and Peace: An Introduction*, (Routledge, 2011), p. 144

<sup>25</sup> It's worth remembering here that Walzer himself does not endorse the intention-based view of humanitarian intervention. Rather, he argues that the intervening state needs to share the ends of the beneficiaries only to some extent: "It need not set itself to achieve those purposes, but it also cannot stand in the way of their achievement." (*Just and Unjust Wars*, p. 104) This position seems closest to Nicholas Wheeler's suggestion that interveners' actions should not undermine humanitarian goals, and is weaker than my position that actions must be likely to promote humanitarian ends. See Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society*, (New York: OUP, 2000).

As Bellamy indicates, Kosovo is probably the paradigmatic rejection of Walzer's double intent standard: NATO leaders opted for a form of intervention that minimised all risk to its own troops, exposing non-combatants to serious risks of harm. But I don't think this is enough to show that the intervention (a) lacked humanitarian intent, and (b) was therefore impermissible, for the reasons just given. The impermissibility arises not because the distribution of risk is incompatible with humanitarian intent – it's not – but because the means adopted were unlikely to promote humanitarian ends. This supports my view that it is what the state does, rather than its intentions, that grounds permissibility.

## V. Parsing behaviour

One of the difficulties in making sense of this debate lies in distinguishing the various components of behaviour – motives, intentions, actions, ends and outcomes. Bellamy seems confident that we can pull motives apart from intentions, and there is of course an ordinary sense in which we can talk of what you intend to do (rob a bank, for example) without talking about why you're trying to do it (which could be, for example, to fund your expensive lifestyle, because you want to get revenge on the bank for firing you, or because you need to pay off some debts you owe to a loan shark).

Along these lines, Bellamy claims that, for example, "Vietnam could have intervened with the *intention* of halting injustice and bringing peace to Cambodia and still have been primarily *motivated* by a desire to secure its borders, stem Chinese influence and remove the troublesome Pol Pot."<sup>26</sup> Presumably he means that not only is it conceptually possible to pull the intention and motives apart, but that an intervention meeting this characterisation would have been permissible.<sup>27</sup> But the distinction between intentions and motives now becomes rather woolly. I'm not sure that an answer to the question of what your intentions are when

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<sup>26</sup> Bellamy, pp. 228 - 229

<sup>27</sup> The actual Vietnamese intervention Bellamy describes as "questionable", because "the alleviation of human suffering [was not] the primary intention of the intervention." (p. 228)



you rob the bank will be complete if I say simply that you intend to rob the bank. A complete answer will say that you intend to steal some money to buy a fancy car, or to embarrass or impoverish the bank, or pay off the loan shark. And once we have this more complete story of your intentions, it becomes much harder to distinguish this from your motives. That you intend to get the money to buy a car seems to tie your intentions to a motive of greed. That you intend to embarrass or harm the bank ties your intentions to a motive of revenge. Our intentions and our motives (and indeed our ends) are often so intimately connected that I'm not sure it really makes sense to insist upon the centrality of one, but deny the importance of the other.

Similarly, if we're asked to identify Vietnam's intentions in Bellamy's suggested picture of their intervention in Cambodia, it's not clear that a full answer will stop at saying they intend to halt injustice. After all, on the picture he paints, halting injustice is a means to end. It is not an end in itself. Of course, insofar as one must intend the means to one's end, we can agree that the Vietnamese do intend to halt injustice. But that's not *all* they intend – one must intend one's ends as well. And in this case, the Vietnamese intend, ultimately and perhaps primarily, to secure goods for themselves.

This is problematic for Bellamy in two ways. The first is that if intentions are what matter, he needs to say something about the relevance of these non-humanitarian intentions to the permissibility of the intervention. We cannot take for granted that the intended means, and not the intended ends, are the source of the primary intentions. Second, positing these kinds of ends seems to me incompatible with Bellamy's reliance upon the doctrine of double effect. In his summary of this doctrine, Bellamy lists as a condition of an action's legitimacy that "the desired end must be good in itself".<sup>28</sup> In his picture of Vietnamese intervention in Cambodia, the halting of injustice is treated as a means to the desired end of securing

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<sup>28</sup> Bellamy, p. 228

Vietnamese borders, limiting Chinese influence and getting rid of Pol Pot because of his ‘troublesomeness’ (by which Bellamy presumably means to indicate his inconvenience for the Vietnamese, not his humanitarian abuse of his people). Are these desired ends good in themselves? It’s hard to say, but as goods that serve the interests of Vietnam, they just don’t seem like the right kind of ends to be counted in deliberations about whether to wage a war in Cambodia. By incorporating the doctrine of double effect into his account, Bellamy inadvertently commits himself not only to importance of intentions, but also of ends, and once he does that, it’s hard to see how he can exclude the ends that motivate the intervention. But there’s nothing obviously humanitarian about the ends he envisages the Vietnamese promoting in their intervention in Cambodia. Given this, it’s hard to see how Bellamy can permit such an intervention after all, even if the Vietnamese would act in a way that would provide humanitarian relief.

#### **IV. The Justification-Based Account**

I think that rather than focusing on intentions or motives to determine permissibility of humanitarian intervention, we should look at justifications and actions. By ‘justifications’, I mean that we should consider whether there are sufficient reasons to intervene in a given state. Roughly, this is going to mean that there are widespread serious rights violations occurring in the state (or a credible threat of such violations), and that the state’s leaders are either unable or unwilling to prevent these violations, or are instrumental in their perpetration. If military force is likely to be the only effective means of curtailing the violations, and is a proportionate response to those violations, I suggest that this provides sufficient reason to intervene in that state. I will take it as uncontroversial that these are the sorts of facts that justify intervention in what we can loosely call an ‘objective’ sense, where this means that they are reasons that obtain independently of what any particular state might

have in mind by intervening. They are certainly the sorts of facts that trigger debates about whether a particular state ought to intervene in another country.

Bellamy and I come apart because he wants permissibility to depend not on whether there *are* these reasons to act, but on whether they are the *intervening state's* reasons for acting. This seems to me a mistake. What matters is whether the relevant justifying reasons obtain: whether people are at risk of serious harm, and whether military force could avert this. Bellamy's emphasis on the rescuer, instead of those in need of rescue, displaces the what ought to be of central concern in our account of intervention, namely the peril of the potential beneficiaries. In calling my account the justification-based account, I mean to reassert the centrality of the potential harm in our account of permissible intervention.

The second feature of this account concerns what a state does in a rather basic sense: what kinds of weapons it uses, what kind of strategies it employs, where and how it engages the enemy and so on. In this sense, I think Bellamy is right that we need to pay attention to the methods employed by a state's armed forces as they engage in interventions. But Bellamy thinks that we should study actions because they can reveal intentions, where it is the intentions that ground permissibility. I think we should study a state's actions because they themselves are a ground of permissibility. As long as actions are reasonably expected to aid, the agent's intentions need not be humanitarian in order for their action to be permissible. Note that I am distinguishing actions from outcomes here: when I talk of what a state does, I mean to indicate the courses of actions in which it engages considered in light of the likely or predicted outcomes. But I am not advocating a Tésou-style consequentialist account where permissibility turns on whether or not the actions do in fact prevent or curtail harm.

I suggest that when it comes to averting very serious harms, neither intentions nor motives determine the permissibility of an agent's actions. Imagine that I come over to your house to watch television. We watch my favourite show, *Crimewatch*, which makes an appeal

for information regarding the whereabouts of a dangerous criminal who has murdered two people and is likely on the lookout for more victims. As luck would have it, only hours earlier, I rented an apartment to this man. In fact, he's just picked up the keys from me and I gave him a lift over there, so I'm pretty sure that I know exactly where he is. And, even more luckily, Crimewatch are offering a £10,000 reward for information leading to his arrest! I couldn't care less about his murdering people, as long as he pays his rent on time. But I am tempted by that £10,000 reward. I decide to call the hotline and tell them where he is in order to get the money.

Clearly, I am blameworthy for my indifference towards this man's victims, and towards the very real possibility that he will kill other people. It would speak much better of my character if I phoned the hotline out of a genuine concern that the man be brought to justice before he can harm anyone else. But my mercenary intentions do not render my phoning the hotline impermissible. On the contrary: morality requires me to call the hotline. Morality might also require me to call for the right reasons, but my failure to fulfil this second requirement does not undercut the first.

This seems to me to generally plausible when we think about opportunities to avert serious harm. I might rescue a drowning child because I intend to use my heroism in my campaign to be appointed to the local council, rather than because I intend to prevent harm to her and spare her parents the grief of having their child die. This speaks badly of my character. But it is still much better, and morally permissible, that I rescue the child rather than fail to do so.

There might be some cases in which my intention makes the difference between my acting permissibly and my acting impermissibly, of course. Throwing you a surprise party because I intend to give you a heart attack would render my throwing the party wrong, even if, as it turns out, you stubbornly fail to comply with my intentions and have a splendid time

instead. But when it comes to actions that will avert very serious harm, I don't think it matters what my intentions are, provided that my actions can reasonably be expected to avert the harm. Similarly, whilst the intentions of a state's leaders are relevant to our judgements of their character, we should not take them to determine the permissibility of rescuing people from serious harm.

Of course, there's some sense in which we have to look at what a state is going to do in order to form a judgement about whether intervention is justified.<sup>29</sup> We cannot know whether war will be a proportionate response to some wrong unless we know what kind of tactics are going to be employed in the course of the war. Nor can we satisfy the requirement of a reasonable prospect of success – which means success by legitimate means – unless we know which means will be employed. So, there must be some description from the state of what it intends to do, in the way I described above – that, for example, it plans to launch an air offensive followed by a ground campaign and so on.

But this is familiar from our usual reasoning about *jus ad bellum* with respect to defensive wars. Here too we must have some idea of the proposed methods of warfare in order to judge proportionality and the prospect of success. But, as far as I am aware, nobody takes this to mean that intention is the pivotal factor in permissibility. And, as I suggested above, we should not care about the proposed strategy because it reveals the state's intentions in Bellamy's sense of revealing whether they are genuinely humanitarian. The strategy *itself* is what is of concern: whether those methods are likely to promote humanitarian goals. This can be assessed independently of whether or not the state is acting with humanitarian intent.

## V. Consent

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<sup>29</sup> Thanks to Christopher Monahan for pointing this out.

It seems natural to think that it should be part of a justification for intervention that the intervention is consented to, or welcomed by, the intended beneficiaries. Those who advocate the inclusion of this sort of criterion will probably do so because of thoughts about self-determination. Such thoughts might include that it's important that states in periods of revolution or other transition are masters of their own fate, perhaps for reasons of national self-respect, or because this increases the chances of long-term stability. Or, we might think that if a population seems not to want outside interference, it would be morally wrong to force it upon them. Finally, we might think that foisting assistance upon those who do not want it is likely only to exacerbate the conflict.

But there are both practical and moral problems with including a consent-based criterion in our account of justification. The practical problems arise because it will be very hard to know what percentage of a population support foreign intervention in their country. We have no way of polling the intended beneficiaries to see whether there is general support for intervention. We might look to social media or news reports, or talk to refugees, to try to get a sense of whether intervention is supported, but it will be hard to know whether the views expressed are representative. This unsystematic and informal surveying is unlikely to satisfy any reasonable standard of consent. It would also make it almost impossible to judge receptiveness to intervention in very repressive states, where citizens have limited access to the outside world, even though these might be just the sorts of states in which intervention is most warranted.

Because of these difficulties, there's a temptation to say that we can simply assume that the intended beneficiaries of the intervention consent to being rescued. After all, it's hard to imagine that people would not want to be rescued from serious harm, even if the rescue was to be enacted by a historical foe, or dented one's self-respect. Given this, when faced with an actual or looming humanitarian crisis, it is perhaps reasonable to assume that the

people at risk welcome rescue, and that if they were able to more explicitly consent, they would do so.

But even if we could secure reliable information that intervention would be welcomed, or even if we can reasonably assume this to be the case, we must still consider what role this plays in our justification for intervening. We can see the difficulties most clearly by thinking about how the moral status of the intervention would be affected by a clear *lack* of consent. Imagine a state in which a humanitarian crisis is occurring, and yet all the signs indicate that less than 50% of the adult population supports foreign intervention. Would the fact that a majority of people do not want to be rescued undercut the rights of those who do want to be rescued to receive assistance? It's hard to see how this could be the case, since the right not to be the victim of serious unjust harm is so much more stringent than the right not to be made better off against one's will. And remember that this result reflects only the *adult* population's wishes. Any state will have a sizeable population of children whom we have a duty to aid even if their parents oppose the intervention. Even if the percentage of adults opposing the intervention were very high – an overwhelming majority – I'm not sure that this could trump the right of the children to be rescued. Of course, if adult opposition were so strong that it seriously hampered the intervention's prospect of success, this could tell against the intervention. But here it would not be the lack of consent that undermined the case for intervention, but the diminished likelihood of success arising from the adults' opposition.

Given this, whilst the perceived attitude of the beneficiaries should feed into our considerations about the likelihood of success, and thus indirectly form part of our deliberations about the justification for intervention, we should not include consent as a separate component of justification for intervention.

## Conclusion

There's still work to be done here developing the positive thesis that it's what a state does that matters, rather than its intentions or motives. But, at least, I hope to have shown that existing accounts that focus on intentions or motives are unsuccessful. This is in part because they face practical problems in establishing which intentions or motives are in play. But Bellamy's reliance on double effect and double intent also undermines his exclusive focus on intentions, and overlooks important questions surrounding the distribution of risk. I think the justification-based account is more attractive than Bellamy's because it's easier to establish at both the *ad bellum* and *in bello* level. Whether or not there is a looming or actual humanitarian crisis is something that is open to public scrutiny in the way that just causes for war should usually be.<sup>30</sup>

It's also possible, although I haven't given an account of it here, to make informed judgments about what kinds of actions are likely to promote humanitarian goals. But my account also gives priority to the rescuing of people in dire need over the moral character of the interveners, something that gets lost in the intentions-based account. Of course it would be better if we intervened in troubled states out of a genuine desire to aid. But intervening for self-interested reasons, but in a way that secures humanitarian goods, is better than not intervening at all.

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<sup>30</sup> See Jens Ohlin and George Fletcher, *Defending Humanity: When Force is Justified and Why* (New York: OUP, 2008), p. 161 for a discussion of this idea.