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GERALD DOPPELT

## Walzer's Theory of Morality in International Relations

### I

In his new book *Just and Unjust Wars*, one of Michael Walzer's central concerns is to advance a theory of international aggression.<sup>1</sup> His theory would guide us in determining precisely when one state practices aggression against another and on what grounds aggression is immoral. It would also help to define the nature of the right possessed by the victims or observers of aggression to resist militarily and punish the aggressors. For Walzer, aggression involves the forceful violation by one state of the territorial integrity or political sovereignty of an independent state. As such, it defines the most serious moral problem which arises in international relations; it is "the only crime that states can commit against other states: everything else is, as it were, a misdemeanor" (*JUW*, p. 51).

Walzer's theory of aggression is articulated by means of what he calls the "legalist paradigm" which postulates a moral order among independent states on an analogy with the more familiar case of the civil order among independent citizens within any one state. From the standpoint of this paradigm, states have rights and duties; they can suffer or commit crimes such as murder or armed robbery in their relations to one another in much the same way as do persons (or citizens) within a particular society. Indeed, on Walzer's "domes-

1. Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977). Hereafter referred to as *JUW*.

tic analogy," states are like persons in that the proper moral order between both sorts of "individuals" derives from their deepest underlying claims to independence and autonomy. Just as every state in principle regulates the relations among its citizens to secure each some privileged sphere of autonomy (for example, Lockean rights), states ought to regulate their relations in order to secure for each state a similar freedom from external force or intervention. Such autonomy is conventionally signified in terms of a nation's *right* to political sovereignty, territorial integrity, and self-determination. Drawing on this paradigm, Walzer elaborates his theory of aggression as a system of axioms, which can be paraphrased as follows. There exists an international society of independent states, each of which has rights of territorial integrity and political sovereignty. Any use or imminent threat of military force by one state against the rights of another constitutes criminal aggression and justifies forceful resistance and eventual punishment meted out either by the victim or by other states within international society or both. Finally, the use of military force by one state in relation to another can be justified *only* as a response to aggression, and not for any other end (with a few exceptions to be noted later), *JUW*, pp. 61-62.

The initial power of Walzer's legalist paradigm is the great simplicity and elegance of the absolute moral prohibitions it justifies to starkly limit the occasions for the legitimate use of military force in international relations. But this paradigm generates a series of problems which, as Walzer himself realizes, must be solved if it is to work. The problems grow out of the paradigm's basic analogy between persons and states. When the classical liberal theorists (for example, Locke) argued that all human beings have certain rights of life and liberty, it is fairly clear who has these rights, what entitles them to these rights, and the conditions under which they might be legitimately denied. But rights of states to territorial integrity and political sovereignty are much more difficult and controversial to determine. First, who is correctly viewed as the bearer of the rights of political sovereignty? Is it the people of the nation-state as a whole? Or is it the particular government which claims to rule them with legitimacy? Obviously, aggression directed at a tyrannical government, and at

those few who may upon some occasion be paid or intimidated to look after its defense, need not necessarily amount to aggression against the people or nation itself. Second, if a state does have the right of political sovereignty, in virtue of what features does it have this right? For example, as Locke would have it, only a government which protects the natural rights of its citizens and enjoys their consent gains the rights of political sovereignty. Third, when does a state or government which has this right forfeit it? Following Walzer's legalist paradigm, just as an individual within a society forfeits his rights (or at least some of them) when he violates the rights of another, a state which commits aggression against the rights of another state loses its political sovereignty, at least in some degree; it can be punished against its will. So far so good. But let us carry the analogy one step further. An individual may also forfeit his rights if he violates the rights of the government itself, as when he refuses to fight its legal war or obey its constitutional laws. Walzer's analogy would thus suggest that a state may not only forfeit its rights when it violates the rights of other states, but also when it violates the rights of its own citizens; in that case, the use of military force or intervention against a government might be justified even though it has only practiced aggression on its own citizens and not upon any other state. The point is, in justifying the use of (or resistance to) force in international relations, what is the status of the rights of states relative to that of individuals? We begin with the assumption that Walzer may want to avoid a theory of international morality which places the rights of states or governments above those of individuals. These problems show that Walzer's theory of aggression must be able to say when a state—a government or a people—has these rights of political sovereignty (and territorial integrity), on what basis it has them, and when they are forfeited.

## II

Walzer's way of dealing with these issues seems quite straightforward. First of all, the bearers of these rights are governments because "in the absence of a universal state, men and women are protected and their interests represented only by their own governments" (*JUW*, p. 61). But, although these rights belong to governments, "they derive

ultimately from the rights of individuals, and from them they take their force" (*JUW*, p. 53). As a result, aggression is immediately an attack upon the state, but its criminality stems from the fact that it is an attack upon the basic human rights of its individual citizens. The moral wrong of aggression "is to force men and women to risk their lives for the sake of their rights" (*JUW*, p. 51). How then, does Walzer identify these human rights which are at the foundation of his theory of aggression? On first impression, they appear to be "individual rights to life and liberty" (*JUW*, p. 54). The result would then be the familiar liberal view that a state derives its legitimacy and political sovereignty from the fact that it protects the basic individual rights to life and liberty of its citizens. Suppose one state uses military force on another state which consistently and brutally violates these basic rights of its citizens. In such a case, this action would not in itself constitute aggression, for no right to political sovereignty could have been violated, unless the victim is redefined as the people, the nation, and not the government. Of course, the use of force might *still* be morally wrong for various *other* reasons (its ends are unjustifiable or it violates individual rights), but it would not constitute aggression, for the victim would not be a legitimate state with the rights of political sovereignty.

While such a view has some plausibility, it is not Walzer's view. On his view, a state may possess the right of political sovereignty independently of the form of its political institutions, whether or not it protects individual rights to life and liberty as we have come to understand them within the liberal-democratic tradition. Walzer agrees with Mill's view that "we are to treat states as self-determining communities . . . whether or not their internal political arrangements are free, whether or not the citizens choose their government and openly debate the policies carried out in their name" (*JUW*, p. 87). Furthermore, it is not simply undemocratic governments which possess the rights of political sovereignty, but also illiberal or tyrannical governments which deny their citizens basic personal and civil liberties (for example, trial by jury, equality before the law, freedom of movement), *JUW*, pp. 87-90. Indeed, for Walzer a government can forfeit its rights of political sovereignty *only* when it engages in the "enslavement or massacre" of its own citizens. Walzer's understanding of "massacre"

is clearly and forcefully illustrated by reference to cases such as the Nazi holocaust and the Pakistani government's systematic slaughter of its own (Bengali) people in 1971 (*JUW*, pp. 101-106). In such cases, the government forfeits its rights and other states gain a right of "humanitarian" military intervention. Walzer's understanding of "enslavement" is less clear; but his main illustration (the Spanish government's 1898 policy in Cuba) suggests that it involves a government's forced resettlement of large masses of people (*JUW*, p. 102). Nevertheless, there is no evidence that "enslavement" for Walzer encompasses the more ordinary practices of tyrannical governments: imprisoning political opponents without trial, torture as a pervasive means of social control, systematic limitations upon freedom of movement and residence (such as those which characterize apartheid in South Africa), the prohibition of trade unions, and the suppression of other civil liberties at the core of the liberal tradition.

For Walzer, the cases in which a state engages in the massacre or forced resettlement of its people constitute one of three kinds of exceptions he allows to his legalist paradigm—cases where "the ban on boundary crossings is subject to unilateral suspension" (*JUW*, p. 90). In addition to (1) cases of "humanitarian intervention" to prevent a government's massacre or forced resettlement of its people, the other two kinds of exceptions are (2) cases of counter-intervention in which one state has already intervened, for example, in a civil war, and a second state gains a right of counter-intervention to balance the force of the first, and (3) cases of "secession" where there are really two or more political communities within one territory and one of these (or the official government) is forcibly preventing the other from secession. When and *only* when any of these three sorts of conditions obtain, foreign military intervention can be morally justified.

Nonetheless a state may be extremely tyrannical and unfree even though it does not exhibit any of these three kinds of exceptional conditions (it is not engaged in the massacre or forced resettlement of its people or the forceful prevention of a secession). On Walzer's legalist paradigm, such a state, regardless of *how* tyrannical and unfree it may be, possesses the indefeasible rights of political sovereignty; and in such cases foreign military intervention (even if in intent or consequence it were to help establish liberal or democratic institutions)

is *always* morally wrong. As Walzer puts it, “. . . domestic tyrants are safe, for it is not our purpose in international society . . . to establish liberal or democratic communities, but only independent ones” (*JUW*, p. 94). There is a paradoxical element in Walzer’s theory which sets the stage for the critique to be developed here. We may recall that the crime of international aggression “is to force men and women to risk their lives for the sake of their rights.” The paradox arises because on this definition, it seems that a domestic government can also commit “aggression” against its own citizens: through its tyranny, it may also force them “to risk their lives for the sake of their rights.” In this case, consider the moral status of (a) some case of foreign military intervention against (b) a tyrannical state. How can (a) force the citizens of (b) “to risk their lives for the sake of their rights” if they are *already* denied their rights by (b)? Furthermore, if (b) forcibly denies its people (or the majority of them) their rights, why isn’t it conceivable that (a) be morally justified as a means to help the citizens of (b) gain a free state—one in which they would *not* be forced “to risk their lives for the sake of their rights?” Walzer himself glosses the paradox when he says, “Though states are founded for the sake of life and liberty, they cannot be challenged in the name of life and liberty by any other states” (*JUW*, p. 61). Why not?

On the other hand, a foreign military intervention against a tyrannical government might be immoral for reasons having nothing to do with *its* rights of political sovereignty; for example, the intervention *might* aim to impose foreign rule, annex the territory of the people or impose other hardships on them. Nonetheless, how could it count as an aggression against a tyrannical government’s rights of political sovereignty, if these rights are supposed to derive from individuals’ rights, which are *denied* by the government itself? Walzer’s theory seems to give states rights of independent political sovereignty which are either in *no* demonstrable relation to, or worse, at the expense of, the individual rights (“life and liberty”) on which the former were supposed to be based.

### III

This paradox poses the two questions central to the remainder of our discussion: (1) Why would Walzer have us treat unfree states as

possessing moral rights of political sovereignty? (2) In what conceivable sense do such rights “derive ultimately from the rights of individuals?” Walzer’s theory seems to operate on two levels: on the *first* level, he implicitly identifies the state with the established government and seeks to account for the right of an (unfree) government to political sovereignty; on the *second* level, he identifies the state with the people, nation, or political community—not its de facto government—and seeks to account for the right of an (unfree) people to “self-determination.” Let us offer a “rational reconstruction” of Walzer’s underlying theory.

First of all, the right of an established government (free or unfree) to political sovereignty derives from its claim to protect from external encroachment what Walzer calls “the common life” or “independent community” which a people has shaped over a long period of time (*JUW*, p. 54). In his view, the rights of a state thus rest on the consent of its members though “this is consent of a special sort.” It is not hypothetical (as it is for Rawls) but rather refers to an actual social process of individual participation in building or sustaining a common life. Consent “is a metaphor for a process of association and mutuality” in which individuals collectively make a common life through “shared experience and cooperative activity of many kinds.” This process further creates an “independent community” with a right to exist free from foreign interference. Walzer thinks of this “independent community” formed by people as “their shared life and liberty.” Hence, he thinks of their right to the preservation of this independent community (right to self-determination) as a “collective form” of their individual rights of life and liberty (*JUW*, p. 54). From his standpoint, through the exercise of their *individual* rights to life and liberty, individuals jointly create a collective life to which they then have a sort of “collective” right—a right to preserve or alter it independently of external intervention.

Finally, as long as a de facto government “stands guard over [this] community of [its] citizens at least to some degree” it enjoys the rights of political sovereignty and “we assume the justice of [its] defensive wars” (*JUW*, p. 54). But suppose a civil war or revolution or “struggle for national liberation” breaks out and the established government loses its power or right to provide this protective function. This

brings us to the *second* level of Walzer's theory in which he seeks to ground a *people's* right to self-determination and make a case against foreign military intervention, even where there is no effective or legitimate government to claim this right. From this standpoint, once people have formed a political community through "consent," *only* they have the right to alter its terms, transform its political institutions, carry through a revolution, or resolve a civil war. Indeed, Walzer's view is quite extreme on this point virtually implying "a duty of self-determination" stronger than a mere right. Imagine a case in which an oppressed majority of a political community (for example, the black majority of South Africa) is engaged in a just revolutionary struggle against a tyrannical government and its minority supporters. Suppose this majority *requests* and in fact *needs* foreign military intervention in order to have any decent chance of winning its struggle with the better trained, experienced, and equipped forces of the status quo. Echoing J. S. Mill's "stern doctrine of self-help," Walzer holds that even in such a case, foreign military intervention would be morally wrong and the majority engaged in a just revolutionary struggle has *no* right to request or receive this aid; it has "no right to be protected against the consequences of domestic failure, even against a bloody repression" (*JUW*, pp. 87-88).

Underlying Walzer's legalist paradigm is a conception of self-determination which the paradigm erects into a practically inviolable value at the foundations of morality in international relations. It seems to come to this: whenever through the process of "consent" individuals form and sustain a "common life" they constitute an independent political community. Whatever the moral or political character of this "community," it is its "independence" from external military intervention that Walzer values above all else in international relations. Hence, however oppressive a government and political community may be, Walzer would have its people, even if they are seeking to better their lot, maintain their strict independence from external military intervention (or assistance) above *all else*, even if the alternative is continuing oppression. Such is the right, or as I have called it, the duty of "self-determination" which grounds Walzer's morality for international relations. To my mind, it is a strange con-

ception of international morality which thus abstracts from the moral character of the states whose independence is so prized.

In the remainder of this essay, I will offer a critique of Walzer's conception of morality in international relations. We began this section by posing two questions, concerning the grounds of Walzer's theory for ascribing the rights of political sovereignty to unfree governments and concerning the sense in which such rights might conceivably derive from individual rights. We have now explained his conceptions of consent, political community, "collective rights" (self-determination), and "the stern doctrine of self-help" in order to understand how he answers our two questions. The thrust of my critique will be that these conceptions are neither clear enough nor strong enough philosophically to ground rights of political sovereignty for unfree governments and the right, indeed "duty" of self-determination for *de facto* political communities. Furthermore, I will argue that the immorality of foreign aggression, even against tyrannical governments and illegitimate, divided political "communities" can be accounted for *without* assuming any of Walzer's dubious *rights* of political sovereignty.

#### IV

Before considering his underlying conceptions of consent, community, and collective rights, let us interrogate Walzer's "stern doctrine of self-help." On what grounds does Walzer argue that even where a majoritarian revolution is justified and might *request* and *need* external military assistance, such intervention would be morally wrong? The argument he uses is adapted from Mill and, I believe, depends on a false dichotomy. Given the nature of political freedom "The members of a political community must seek their own freedom, just as the individual must cultivate his own virtue. They cannot be set free, as he cannot be made virtuous, by an external force" (*JUW*, pp. 87-88). Mill's argument does express important empirical truths concerning political freedom; namely that for a people to exercise popular control over their institutions they, or at least their leaders, need to develop political capacities which are lacking under tyrannical institutions, and which can only develop through a process of internal

struggle in which *they* play the major roles, make the major decisions, and control the new institutions as they emerge from the old. Clearly, such political capacities cannot develop if the struggle for popular institutions is waged by a foreign power and not the populace itself. But granting this axiom of politics, Walzer's dichotomy of "foreign intervention" or "internal struggle" does not follow. For it is surely empirically possible in some cases for a people to wage a popular internal struggle against tyrannical institutions in which they in fact need, request, and obtain the active military assistance of another people *without* forfeiting their own integrity, leadership, and evolving political capacities. Furthermore, why should the right of a people to self-determination be understood so that it is always morally wrong, independently of the particular historical circumstances, for them to seek and for other states to provide active military assistance in the struggle which they nonetheless initiate, direct, and inspire? In the modern world as we know it, some popular struggles may be doomed to failure if those who wage them cannot in principle avail themselves of such assistance; the reason is that their internal foes—often military governments allied with privileged, powerful minorities—enjoy a substantial monopoly on the means of force and repression, often provided by foreign governments and groups interested in maintaining their own political influence, economic domination, or privilege in the nation in question.

Of course, Walzer's argument while inadequate in general, does provide a good reason for the immorality of intervention in some cases. If such intervention in fact "denies to a people those political capacities," it will need to govern itself [and this is known], then it is self-defeating and immoral (*JUW*, p. 89). Furthermore, foreign intervention may be immoral in such cases for many *other* reasons: it may unleash intervention by other states with a terrible toll for human life, world peace, and the prospects of civilization. Or, in some civil wars, struggles of national liberation, and revolutions, it is simply impossible to determine who, if anyone, represents popular social forces with genuinely democratic or liberal intentions. And, of course, states typically intervene in such struggles, not to advance the forces of democracy or liberal government, but to assist the side that will favor their own political, military, or economic interests. In such cases,

foreign intervention (even by invitation) is morally wrong and this undoubtedly accounts for *most* of the actual and likely cases in the world today.

Nevertheless, such reasons fall short of Walzer's absolute prohibition against all intervention. Indeed, I would suggest that his moral position is not and cannot really be based on his empirical claim concerning the (likely) detrimental effects of such intervention on the political capacities of the people. For, if such intervention has already occurred, Walzer endorses "counter-intervention" by another state—merely to help restore the original balance between the competing forces and for this purpose *alone* (*JUW*, pp. 90, 96-101). The legitimate moral aim in "counter-intervention" is not to determine who wins, but to try to guarantee that the outcome (whatever it is) reflects the relative strength of the contending social forces before *any* foreign power intervened. But this is a very strange doctrine. Why assume that the mere balance of existing forces expresses true self-determination or anything *worth* preserving (for example, "the general will") rather than the fortuitous distribution of military skill, experience, ruthlessness, or equipment between the contending parties in the struggle? And, if one side clearly represents the democratic or liberal forces of the majority and gets the external military intervention it needs and requests, would another state have the right to intervene on the side of the tyrannical government and its supporters merely to restore the original balance of forces? To my mind, this doctrine of counter-intervention reveals the least plausible dimension of Walzer's conception of self-determination as the highest good of international morality. If Walzer values a nation's development of the political capacity to govern itself, how can he justify a foreign nation's right of "counter-intervention" on behalf of a tyrannical status quo which may in fact block this development on the mere basis of superior force. Indeed, if the outcome of a political struggle in a nation reflects *nothing* but the balance of internal military might, I see no more reason for calling this process one of "self-determination" (in a positive moral sense which gives the victor rights of sovereignty) than I do for denying that it is self-determination on the mere basis that foreign troops have played some role in it.

Nevertheless, Walzer's doctrine of self-help (and justified "counter-

intervention”) is undoubtedly based upon his more fundamental philosophical paradigm of the value of independent political communities in the world. Let us then turn to his conceptions of consent, community, and collective rights which ground this moral paradigm.

## V

As we have seen, Walzer seems to have (1) a theory of the right of an established government to political sovereignty and (2) a theory of the right of an established political community to self-determination, based on his account of consent, community, and collective rights. In this section, we shall focus on the derivation of (1) and in the next, upon the derivation of (2). At the outset, let us try to clarify the thrust of recognizing a *de facto* government’s right to political sovereignty, on Walzer’s view. The possession of this right by a *de facto* government implies the moral justifiability of *its* forceful defense against external military intervention. Furthermore, on his view, “the question of when . . . sovereignty can rightly be defended is closely connected to the question of when individual citizens have an obligation to join the defence” (*JUW*, pp. 54-55, especially the footnote). Thus, recognizing an existing government’s right to political sovereignty is tantamount to inferring the obligation of its citizens to defend it against attack. As we have suggested, a people may have many moral reasons independent of the status of their government for defending themselves, their property, homeland, national independence, or lives against a foreign intervention. But if this government has the right of political sovereignty, on this basis *alone* its people have a right and an obligation to repel the foreign power.

There seem to be two independent reasons in Walzer’s theory of when and why existing governments have this right and their citizens have an obligation to defend their governments (as distinct from their property, national independence, lives, and resources). The first is because they have given their “consent” to the government; the second is because the government protects from external encroachment the “independent community” or “common life” to which they have given their “consent.” The two generate distinct and incompatible views; further, I shall argue that neither is adequate to ground the

right of a government to sovereignty or the obligation of citizens to defend it.

In the following passage, Walzer talks as though consent to a government itself were required for its sovereignty:

When states are attacked, it is their members who are challenged, not only in their lives, but also in the sum of things they most value, including *the political association they have made*. We recognize and explain this challenge by referring to their rights. If they were not morally entitled to *choose their form of government and shape the policies that shape their lives*, external coercion would not be a crime. [*JUW*, pp. 54-55, my italics]

In this context, Walzer seems to be making some form of democratic institutions necessary for his "consent." But this is incompatible with his central view that unfree, antidemocratic, or tyrannical governments may have the rights of sovereignty; if these governments involve "consent," it must be consent in some *weaker* sense. A weaker criterion of consent is suggested in Walzer's discussion of South Vietnam. In that discussion, he criticizes the United States military "counter-intervention" in South Vietnam because it came to the defense of a series of governments which lacked (1) the consent ("the popular support") of its citizens, and thus (2) a sovereignty worth defending. In this context, the criterion of consent is as follows:

What is crucial is the standing of that government with its own people. . . . But what is the test of popular support in a country where democracy is unknown and elections are routinely managed. The test for governments as for insurgents is self-help. That doesn't mean that foreign states cannot provide assistance. One assumes the legitimacy of new regimes; there is, so to speak, a period of grace, a time to build support . . . [but] a government that receives economic and technical aid, military supply, strategic and tactical advice, and is still unable to reduce its subjects to obedience is clearly an illegitimate government. Whether legitimacy is defined sociologically or morally, such a government fails to meet the most minimal standards. [*JUW*, pp. 98-99]

The disturbing implication of this argument seems to be that if a regime (for example, the Diem government) had been able “to reduce its subjects to obedience” with aid or even on its own *without* aid from the United States, it would have passed the test of “self-help,” “popular support,” “consent,” and therefore rightful sovereignty. In that case, regardless of the means used by the regime to enforce its rule the United States military counter-intervention on behalf of the regime would have been morally justified. This notion of consent is not far from Hobbes’ view that mere submission to a government (or conquerors) out of fear for one’s life constitutes consent; on this ground, Locke and later liberal theorists rejected Hobbes’ conception of sovereignty. Walzer’s “self-help” criterion for sovereign governments makes the rights of a government a mere function of its power. But this view is inadequate even relative to Walzer’s own initial conception of “consent,” on which a people must at least participate in and “shape” a social entity to which they can be said to consent. Acquiescence to a government in the face of repression, torture, or possible imprisonment may mean “obedience,” but it certainly falls short of political participation of *any* sort and thus of “consent.” For these reasons, Walzer does not succeed in specifying any sense of “consent” to *government* adequate to ground the right of a tyrannical government to sovereignty and the obligations of its citizens to defend it.

The second strain in Walzer’s theory grounds the rights of a government not in any consent to *it*, but rather in its claim to protect (“at least, to some degree”) the independent community formed through “consent.” In the following section, we will examine his conception of community and of consent to it. But in this context, we need argue only that even if a group of individuals “consent” to (that is, collectively and voluntarily make) an independent community to which they are loyal, it doesn’t follow that *any* government which may protect this community “in some degree” deserves the rights of sovereignty or defense. Practically all governments sustain a Hobbesian peace simply by maintaining some modicum of law and order, and provisions for national defense; yet, if such a government were sufficiently tyrannical, would its citizens be unjustified in refusing to de-

fend it from foreign attack? Walzer might respond that our view opens the moral floodgates to foreign military intervention against unfree states while denying us the moral grounds for condemning it as "aggression." But this is not true because in such cases there are typically several moral *grounds* for condemning such acts as aggression and asserting an obligation or right of a people to defend itself. These are wholly independent of its *government's* alleged rights of political sovereignty. The grounds may be that the aggressor seeks to impose foreign rule on a people or to violate its rights of territorial integrity.

Now Walzer may respond that these moral reasons are not logically independent of a government's rights of sovereignty. For the only way the people or nation can defend *its* rights of self-determination and territorial integrity is by defending its *de facto government's* rights of sovereignty. In some cases the two are in *fact* connected, but still *logically* distinct as moral grounds for self-defense. For example, a people may be forced to defend its government not because it recognizes its rights, but as the lesser of two evils. The greater evil may be the yoke of foreign rule, classified by the people as the greater evil because it would abolish *their* right of self-determination even more harshly and permanently than it is already violated by the lesser evil of their own tyrannical government. From their standpoint, the foreign intervention counts as aggression and their self-defense is justified by their right of self-determination, not by their government's sovereignty (even though in defending the former, they must in fact secure the latter). In such a case, (1) the defense of the *de facto* government's "rights" and (2) the defense of the rights of the people to national independence are logically distinct though factually overlapping; furthermore, on my account of the matter, (2) rather than (1) is entirely sufficient on its own to justify the self-defense and the condemnation of the intervention as "aggression." Indeed, even though those citizens who wage the defensive war do so under the auspices of the government (for example, in its army), they might in perfect clarity and consistency justify their behavior in the way my account suggests.

There are other cases in which the recognition of a government's

right to sovereignty justifies a course of action directly opposed to what the right of a political community to self-determination might justify. Imagine a case in which a foreign state for some reason sets out to militarily destroy a tyrannical government without aiming to impose any hardships on noncombatants during the struggle or on the people after it. If the majority of the people acknowledged their government's rights of sovereignty they would be obliged to come to its defense even in this case where only its existence seems threatened. But suppose they plausibly deny its rights of sovereignty because it tyrannically suppresses their individual freedoms; in that case, they may abstain from its defense in the hope that its foreign demise will advance their own right of self-determination by giving them a fresh opportunity to create a less harsh and freer form of government. From our standpoint, this foreign intervention would not constitute aggression, for it has not violated any sovereign government's rights or any political community's rights of self-determination and territorial integrity. To keep the matter straight, even such a foreign intervention (to destroy an illegitimate government) might *still* be immoral if the aim was, for example, simply to advance other selfish economic or political aims of the foreign power.

To summarize, we have argued that even if one denies the sovereignty of tyrannical governments, it is still possible to account for genuine cases of foreign aggression and justified national self-defense through the assumption of a political community's rights of self-determination. The importance of this claim stems from our argument that Walzer has *not* plausibly established the sovereign rights of tyrannical governments. Neither his conception of consent to government nor his view of its protective functions suffices for this purpose.

This result naturally shifts our attention to the second level of Walzer's theory: his account of the right of an independent community to self-determination. It is clear that from his standpoint aggression is a crime because it challenges "the sum of things [we] value most, including the political association [we] have made," in short, the basic good of the community (*JW*, p. 53). But is this really the moral status of all *de facto* political communities? What makes a *true* "community" and "common life" whose independence is worth defending with one's life if need be?

## VI

The concepts of a "common life" and "community" are obscure and have often been employed to mask a multitude of sins. The classical social theorists—for example, Hobbes, Locke, Rousseau, Hegel, and Marx—advanced incompatible theories concerning the root question of what transforms a mere multitude of individuals into a true community with a genuinely common life which a government might legitimately protect or illegitimately obstruct. Indeed, on the views of all these theorists, the mere fact that the multitude shares *some* form of common life—common traditions, customs, interests, history, institutions, and boundaries—is not sufficient to generate a genuine, independent, legitimate political community. For every historical society has exhibited differences between its members—such as inequalities of status (for example, feudal societies) and social class and conflicting religious loyalties. The simultaneous existence of elements in common and elements in opposition within a society naturally leads to the theoretical problem of what constitutes the true basis of that unity deserving the name of political community—a form of integrity adequate to the concept of "self-determination."

The liberal tradition has variously argued that for such community to exist it is sufficient that all individuals have a common status, an equality of certain rights in the eyes of the law; thus whatever the polarities of economic, religious, or social life, the liberal state superimposes a form of commonality upon its citizens sufficient to unite them into a bona fide community of equals. For different reasons, the political theories of Rousseau, Hegel, and Marx dispute this liberal paradigm of political community and advance other criteria for the form of unity it presupposes (for example, Rousseau's "general will," Hegel's universal state, Marx's classless society). Yet on all the traditional theories (except that of Hobbes) the mere fact that individuals are born into and participate in some ways in an established political society is insufficient to compel their rational loyalty or the *de jure* claims of the state. Similarly in Rawls' recent contractarian theory, the stress on hypothetical consent (what it would be reasonable to consent to) implies that even where the members of a state in fact give their political loyalty to it this loyalty is insufficient to ground its claims of legitimacy.

Against this theoretical tradition, Walzer is concerned to develop a more empirical account of political community which will do greater justice to the independence of the ones (inadequate as they may be) that happen to exist in the modern world. In this vein, he advances a criterion for independent political community that is supposed to depend on actual consent and perhaps people's actual political loyalties and subjective national identities. Can such an empirical approach overcome the theoretical problems concerning the nature of a true political community implicitly posed by the tradition in political philosophy?

As we have seen, Walzer's consent is supposed to refer to a social process in which the activity of individuals "makes" or "shapes" a common life and independent community. But this picture is inherently vague and blurs important distinctions between the radically different terms on which individuals and groups are able to participate in, or influence, the life of a particular society. Walzer does not work out such distinctions, and therefore his picture of consent has awkward moral consequences. For example, few of us would be inclined to think of the southern slaves of the United States before the Civil War as consenting to the social system responsible for their subjugation. Yet, it is undeniable that their experience and activity played an indispensable role in shaping the common life and society of the nation in that period. The same could be said for the role of the black majority under apartheid in South Africa. Indeed, the same has also been argued for the great majority of hungry, illiterate, politically powerless, and pauperized peasants and city-dwellers in many societies in Latin America. While the activity (for example, the labor) of such "oppressed" groups gives shape to their respective societies, can participation under such conditions count as consent? Can existing societies with such fundamental political, social, or economic divisions and inequalities (depending on one's theory) count as "true" political communities with rights of self-determination? The existence of a society with profound social divisions (into racial, economic, or religious groups with radically unequal political freedoms, civil rights, economic opportunities, living conditions, literacy or health) always suggests that the oppressed group has little, if any, real choice or control concerning the harsh terms of its social participation. At the very

least, all reflective people (and nations) distinguish between the social participation of a group or individual exclusively based on force, coercion, bare material survival, ignorance, or blind habit and another kind which is "free" and approximates a meaningful sense of "consent." Needless to say, the central conflicts of social theory and life concern the sense the concept "free" should have in this context. Walzer, however, does not enter this debate and thus his theory is vulnerable to the problems raised here.

Of course there is always the possibility that an oppressed group may engage in some form of organized struggle (military or political) to transform the society—a dramatic proof that they do not extend their consent to it. Yet, given the substantial obstacles and risks such revolutionary projects confront under repressive social conditions (in which they mostly arise), their mere absence can hardly signal consent. But in some contexts, it seems that Walzer simply assumes the existence of *one* unified political community and consent to it unless there is either an internal "political or military struggle sustained over time" to prove the existence of "a secessionist movement representing a distinct community" or a civil war where "the insurgents establish control over some substantial portion of the territory and population of the state" (*JUW*, pp. 93, 96). Indeed, his conception of international morality allows foreign states to give "assistance to the established government . . . as long as it faces nothing more than internal dissension, rebellion, and insurgency." This is strange in that one would think the justification of such foreign assistance would *at least* depend on a judgment of the moral character of the regime and the legitimacy of the "insurgency." But in *all* such cases of mere "rebellion" Walzer is willing to allow foreign nations to assist the established government, treating it as "the official representative of communal autonomy" (*JUW*, p. 96). This view reflects the conservative dimension of Walzer's commitment to *de facto* governments as the cornerstone of international morality. Furthermore it suggests that his doctrine of consent is so weak that in the absence of a full-blown, protracted civil war or secessionist movement, even the existence of substantial "internal dissension, rebellion, and insurgency" does not count for this doctrine as *prima facie* evidence of a sufficient lack of consent to question the legitimacy of a state. And, to return to our

main point, where there happens to be no such dissension or rebellion in a state, Walzer's doctrine does not provide us with any theoretical guidelines for determining whether this state of affairs evidences "consent" or something far weaker, such as acquiescence to force, political powerlessness, or ignorance.

In the preceding paragraphs, I have argued against Walzer's conception of consent as participation and the criterion it provides for a legitimate political community. Elsewhere his discussion suggests a different account of consent based not so much on participation as on the political loyalties and subjective national identity of the members of a society themselves. This suggestion is implicit in his treatment of the dispute between Germany and France (1870) stemming from their rival claims to annex Alsace-Lorraine (*JUW*, pp. 55-56). He argues plausibly that the loyalties (subjective preferences) of the inhabitants of Alsace-Lorraine (who were pro-French) should have decided the matter (though in fact it didn't). In any case, the criterion of consent or political community suggested here turns on whether the members of a society perceive themselves as belonging to one state whose common life they value.

Now the case of Alsace-Lorraine is an unusual one in which a people is faced with a clear choice between two distinct national identities and the vast majority choose one as against the other. But how does the test of subjective national identity work to test the consent or subjective loyalty of oppressed groups within the undemocratic or underdeveloped nations of the world? First of all, the loyalties and identity of such groups are typically divided, ambiguous, and internally complex. Most members of, say, an "oppressed" group are positively attached to certain features of the society, merely acquiescent to others, and sometimes hostile to others. Such groups (like everyone else) experience bonds of loyalty to friendships, home, family, neighborhood, and some national traditions and festivities, which for good or bad reasons may be identified with the larger fabric of the political community as a whole. Thus to identify oneself with the nation is often merely to express one's attachment to features of the common life which are logically and empirically independent of, though psychologically associated with, the dominant social and political order itself. Such attachments may exist side by side with hostility or bitter

opposition to certain practices, institutions, or groups characteristic of the nation. The attitude of the majority to the government or dominant institutions may be one neither of loyalty nor outright opposition. Finally, such attitudes as do exist may reflect ignorance (or illiteracy), confusion about the possibility of alternatives (fatalism), economic deprivation (preoccupation with bare survival), and a tradition of political powerlessness—rather than any definite political will and conviction of one sort or another.

In such circumstances, the fact that an “oppressed” group in some sense “identifies” with the nation and is positively attached to certain aspects of the common life, is not by itself evidence of political loyalty, or indeed any political will or consent. Given the complexity and ambiguities implicit in the subjective relations of such groups to the state, Walzer would need to develop some theoretical guidelines to distinguish political loyalty from something far weaker (any sense of national identity). And, where there may be some semblance of loyalty—but it is based on ignorance, blind habit, bribery or graft—new problems arise. Must loyalty to a state be minimally “rational” and “free” to count as consent? Walzer does not work out the conception of consent as subjective political loyalty implicit in his discussion of the case of Alsace-Lorraine, so he does not confront these problems. Furthermore he does not relate this conception to his explicit doctrine of consent as social participation, so we must return to the latter as the basic doctrine underlying his theory of international morality.

My argument against Walzer's basic doctrine may be summarized in terms of the South African example introduced above. The mere fact that the black majority participates in South African society is *not* sufficient to establish “consent” in any sense strong enough to entail this society's rights of self-determination and the obligation of the black majority to defend it. The very society is split into opposed racial groups with radically unequal political and civil rights, incompatible interests and aspirations, and extreme differences in their respective conditions of life. As a result, the black majority does not and cannot participate in the society on terms which they freely choose or can influence; they are systematically denied the forms of political, economic, and social influence enjoyed by whites. Here the government does not just embody the sort of general political tyranny we

presupposed in our earlier examples; it is an instrument of racial, social, and economic domination which pervades the relations between groups in the whole society.

The state cannot derive its rights of sovereignty from the protection it affords some "common life" or "community" above the fray; for, in such a case this "community" is mythical—a term whose use can only obfuscate the fundamental social divisions and inequalities at stake. Indeed, here the state—the government and the whole form of political society based on apartheid—uses its power to block the emergence of a "genuine" community in which all social and racial groups might enjoy the "relevant" form of freedom, equality, and commonality of status (whether this is defined in liberal terms, or in terms more akin to the theories of Rousseau, Hegel, and Marx).

To this line of argument, Walzer may respond that while he is sympathetic to my critique of the injustice of South African society, denying it the right to self-determination on this basis is misguided. It opens the moral floodgates to foreign intervention and even denies the black majority "an arena [the nation and its "territorial integrity"] within which freedom can be fought for and (sometimes) won" (*JUW*, p. 89). Once again, our reply is that a more careful analysis of foreign intervention in cases of oppressive political communities (such as South Africa) reveals that there are moral grounds for repelling most such interventions which need not invoke the rights of such political communities to self-determination. So, for example, the black majority might justifiably act to repel a foreign intervention bent on subjecting the nation to foreign rule or on establishing a puppet regime involving economic exploitation. Yet, it could reasonably ground this defensive action *not* as the defense of the rights of any government or political community which *presently* exists in South Africa, but rather as the defense of its right (the oppressed black majority's) to create at some point in the future a free government and genuine political community. The black majority would then be defending against foreign design its legitimate aspiration to form a genuine political community of its own making in the future and not recognizing any right to sovereignty on the part of the South African state either as government or political community.

Now Walzer may perceive this account as equivalent to his own.

But the difference between the two standpoints is even more clearly exposed in cases where they justify opposite behaviors on the part of an oppressed group in a divided political community. From my standpoint, but not his, the black majority of South Africa would have *no* moral obligation to defend the political community from any foreign intervention which did not threaten the political aspirations, interests, or nationalist unity of the blacks themselves. Furthermore, because South Africa is not a legitimate political community (on my view), such a foreign attack or intervention would not be criminal aggression. Though, depending on the actual circumstances, it probably would be wrong for other moral reasons (for example, its selfish ends or the immoral consequences for *individuals'* lives and property). Finally, as we have seen, Walzer so prizes the independence of *de facto* political communities that even where he admits revolution is justified, he holds that foreign intervention for the same ends as revolution is always immoral. "It is not true, then, that intervention is justified whenever revolution is," he states, "for revolutionary activity is an exercise in self-determination, while foreign interference denies to a people those political capacities that only such exercise can bring" (*JUW*, p. 89). From our standpoint, this may be true in some cases, but is decidedly false in others. In the case of South Africa, suppose it is justified for the black majority to mount a revolutionary struggle to transform the nature of their society. Then on my view, if they need, request, and obtain the military participation of a neighboring state, its intervention is not wrong; nothing *worth* preserving has been violated (as long as it isn't a case where the foreign state "takes over" the struggle and the indigenous black majority loses the chance to develop its own political leaders and capacities for eventual self-rule).

We may now return to our point of origin: Walzer's claim to ground the "collective" right of a state to self-determination in individual rights to "life and liberty." By this point it should be clear that this claim is for the most part incoherent. States which have the collective right, for Walzer, may violate the individual rights of all or some group of its citizens. Furthermore, how can the rights of a political community constitute a "collective form" of individual rights when the individuals whose activity is supposed to make this community lack individual rights? Indeed this is another formulation of the

inadequacy in Walzer's conception of consent. As long as individuals enjoy certain basic civil and political rights, there is some justification for thinking their social participation is free and their activity makes a collective thing (the political community) to which they owe a rational loyalty and an obligation of self-defense. But if they lack such individual rights, "consent" loses its meaning and the alleged connection between the individual (his activity, rights, or will) and the collective rights of the state becomes mysterious. Worse yet, the language of collective rights furnishes a rhetoric of morality in international relations which places the rights of de facto states above those of individuals.

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