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Communities of Power: Rawls's Liberal Society and the Legitimate Use of Force

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Communities of Power: Rawls's Liberal Society and the Legitimate use of Force

An Honors Thesis

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By

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"There must be, not a balance of power, but a community of power; not organized rivalries but an organized common peace"

- Woodrow Wilson

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Abstract

In *The Law of Peoples* John Rawls argues for an international community led by a society of liberal democracies committed to spreading peace and just governance. In doing so, he builds on Immanuel Kant's *Perpetual Peace,* which argued for a similar "League of Peace" to lead other nations. Both Kant and Rawls argue for disarmament and pacifism on the part of their leading nations. In this thesis, I take issue with Rawls's pacifism, arguing that the liberal society faces threats from terrorism and humanitarian disasters abroad that could compromise their political aims to an extent that necessitates a forceful response. Working from this premise, I examine the history of philosophy of what constitutes a legitimate use of force. Using a theory of legitimacy couched in Jürgen Habermas's discourse ethics I argue that the liberal states are able to legitimately use force abroad. Furthermore, since the legitimating process relies on a commitment to discourse, non-liberal states are precluded from taking similar actions. Finally, I address objections and in so doing argue that while liberal states may legitimately defend their political goals, they must combine such actions with robust aid and assistance abroad and rigorous oversight domestically to avoid reliance on force.

Introduction

It is often difficult for citizens to reconcile their country's real actions with their idealized vision for what it should be. While political philosophy has provided many blueprints for a just society, it is hard to argue that any extant state conforms exactly to thinkers' guidelines. Scholarly consensus has tended towards open and democratic societies, but even in liberal democracies expectations far exceed reality. In the United States, gross historical injustices are papered over with astonishing regularity in politics, pop-culture, and even the educational system. Similarly, many countries in Europe struggle to come to terms with their colonial history and its continued effects around the world. While political philosophy has given us something to aspire to, the impediments of historical reality can seem insurmountable.

If it is difficult for citizens to reconcile injustices at home, then it is potentially harder still for them to judge what is happening outside their borders. Likewise, it is difficult for political philosophy to engage with the complexities of the international community while still coming out the other side with a coherent philosophy of how to make such arrangements "just." Outside of academia attempts to structure the international community often become farcical as they run headlong into the realities of international politics. When I first became interested in foreign affairs in high school, I was perplexed and disheartened by the contradictions of the system. Why were human rights abusers allowed to sit on the UN Human Rights Council? Why was the Universal Declaration of Human Rights, a document to which the vast majority of countries have acceded, totally ignored all over the world without protest from the bodies and states ostensibly dedicated to its enforcement? The kneejerk response to such questions is sometimes to attribute the disrespect for human rights and international law to the lack of an enforcement mechanism. However, growing up during the Iraq War, and beginning to study

philosophy at Bates as the broader consequences of US involvement started to reveal themselves, I was presented with another paradox: despite the moral outrage inspired by crimes against humanity it was hard to believe that invading the places where they occur (the most commonly cited "enforcement mechanism") would lead to anything beneficial.

I was first interested in the notion of "just war" by my semester abroad in Berlin. After decades of empire, followed by a failed democracy, followed by one of the worst dictatorships in human history Germany re-entered the community of nations with a flourishing democracy and strong economy. Such an accomplishment seemed not to have been possible were it not for the Second World War and post-war rebuilding effort. The *Freie Universität Berlin* (Free University of Berlin) that I studied at was founded right after the war in the American sector of West Berlin and the "Free" in its title explicitly refers to West German democracy. There were buildings named after generals I had read about and there was a John F. Kennedy Institute for North American studies. West Berliners in particular, I learned, felt a debt to the Western Allies for the Berlin Airlift during the Soviet blockade in 1949 – Germany, it seemed, was as much a success story for liberal interventionism as Iraq was a failure. Neither example is that simple; Germany had suffered 12 years of dictatorship but was previously a democracy while Iraq was a colonial construction drawn without regard for ethnic or religious divides. That said, the precepts of just war theory seemed to provide evidence for my hope insofar as the right intentions (defense and humanitarianism) of the Second World War had created a democratic ally while the deceit and greed behind the invasion of Iraq had led to suffering and despair. Most of just war theory made sense to me intuitively, but I found that there was one condition that aroused my old frustrations with the international system. If a just war is to be prosecuted one must have "legitimate authority" to declare it. Most scholars identify the authority as something approximating the will

of the people but are very careful to note that this does not mean only democracies can wage just wars. Here again seemed a false equivalence between different types of governments. How is it that a country without elections, for example, could embody the will of the people to the degree necessary to conduct a war against another state? Increasingly feeling that the heart of my problem with international politics was its lack of actor distinctions I began to dig further. The actor distinctions I was looking for would, ideally, distinguish between states based on their domestic circumstances. Although all states deserve rights, it seemed to me that only those that follow international law should be in a position to try and enforce it – the assumption of equality between states that treat their citizens wildly differently seemed to be the original sin of the international legal system.

I first read John Rawls the semester before I went to Berlin in a seminar on "Liberty, Equality, and Community." *A Theory of Justice* struck me as first and foremost *reasonable*. The original position was a simple but telling way of deciding whether or not a state was just. Liberal democracy was a natural outcome of people's risk aversion when designing a society because it was the only form of government that could be expected to balance people's rights with their needs. Learning that Rawls had also written a book on international relations I was hopeful that the same reasonableness had been brought to bear on the questions that had frustrated me for years. By-and-large I found this was the case. Rawls's *Law of Peoples* lays out a vision for liberal leadership, but also for toleration. Liberal governance is clearly the goal, but while it is expansionary it is not expansionist. Rawls does not envision liberal democracy being bought with defense budgets but rather with aid, diplomacy, and the example that liberal states provide to the rest of the world. Rawls does have a limited section on just warfare and, although he generally conforms to the pacifism of Immanuel Kant's *Perpetual Peace,* which had argued for a

"League of Peace" not dissimilar to Rawls's liberal alliance. Although largely satisfied with Rawls's vision for an international community, I was increasingly skeptical of the depth of pacifism he expected of his liberal alliance.

In the last few years it has seemed to many that liberalism has begun to falter. In the face of terrorism governments have taken immense liberties with the rights of their citizens and citizens have often proved willing to accept the tradeoff. In the face of economic stagnation and mass migration politicians have taken advantage of people's fears and prejudices to target their rights-removal to particular segments of the population. The reasons for this are too numerous to address completely in this thesis, but at least some of this can be attributed to failures abroad. Reckless foreign policy decisions such as the Iraq War have more than likely contributed to the mass migrations now leading to the rise of anti-liberal politics in Europe. In such an atmosphere of fear the threat of terrorism and the policies that result is particularly acute as well. With liberalism proving to be more fragile than we thought, Rawls's view of the liberal alliance as an aspirational plane from which no state descends back into illiberalism starts to crack under pressure. Nonetheless I still have a deep admiration for the *Law of Peoples,* and though this thesis presents my problems with the structure and behavior of the liberal alliance the overarching goal is still to develop a structure whereby Rawls's vision of liberal leadership can be achieved in the end.

To this end the thesis is presented in four chapters. The first is an introduction to Kant's *Perpetual Peace* and Rawls's *Law of Peoples*. Particular care is given to where the terminology of this thesis diverges from Rawls (I explicitly use states, rather than Rawls's peoples, as the actors in question) as well as his classifications of different types of governments and their role in the international community. This chapter examines the role of the democratic peace in

Rawls's community. Democratic peace proponents argue that democracies are unlikely to fight one another because their citizenry does not want to fight, and because democracies afford their people a say in government these states will not go to war with one another. Whether or not there is empirical evidence for democratic peace is a hotly contested issue for political scientists, but for the purposes of this thesis it will be assumed that at least liberal states will peacefully deal with one another. Even if this were not the case generally, it can reasonably be said to apply to liberal states that have affirmatively committed to one another as Rawls envisions the liberal alliance doing. This has been evidenced by the success of NATO and the European Union in curbing interstate conflict,

The second chapter deals directly with the threats to liberalism that I feel Rawls has overlooked. Drawing on Philip Bobbitt's *Terror and Consent*, I identify terrorism and humanitarian disasters as the primary threats to liberalism abroad. In the former case I argue that large-scale terrorist attacks not only erode public trust in their government for failing to protect them, but also that reactions against the perceived lack of security that have the potential to undermine essential civil liberties. In the latter case, I argue that humanitarian disasters abroad undermine liberal governance in two ways: first, the goal of developing liberalism in other states cannot be achieved if liberal states are seen as mere bystanders when the essential rights of others are abrogated. Second, the longer a humanitarian emergency persists the harder it will be to reconcile groups at the end, precluding the transition from "outlaw" status that should be the end goal of any liberal intervention. Further, I argue that both of these circumstances require forceful action on the part of the liberal states in order to preclude these negative effects.

The demand for forceful intervention raises a question of legitimacy crucial to the rest of the thesis. Why are liberal states allowed to step outside the bounds of narrow self-defense? Are

other states allowed similar recourse against these problems? In order to answer these questions, I work through the history of legitimacy, starting from Aquinas and the first formulation of the "legitimate authority" condition in just war theory. Next I move on to Hugo Grotius, the first secular just war scholar, and discuss how his conflation of sovereign authority with near-unlimited access to the legitimate use of force allowed centuries of warfare and colonization. Tracing the decline of unlimited national sovereignty after World War Two, I examine two competing trends of legitimacy studies in international relations: analytical legitimacy wherein empirical evidence is studied to see what compels actors to follow rules, and normative legitimacy wherein the philosophical and legal dimensions of what makes an act legitimate are interrogated. Finding neither entirely sufficient to explain whether or not collective action by the liberal alliance is legitimate, I turn to Corneliu Bjola's "deliberative legitimacy." Based in Jürgen Habermas's discourse ethics, Bjola advocates a three-step check for legitimacy wherein all relevant actors must be included in a discussion, all must possess the fullest possible knowledge of the situation, and all must have a genuine interest in the deliberations. If these conditions are met, then an action by that group is considered legitimate. Next, I argue that the liberal states are likely to follow the precepts of deliberative legitimacy as rules for their interventions in the interest of preserving the legitimacy of the liberal project. As for other states, I argue that without domestic democratic structures to drive "genuine interest" in the deliberations other states which are not liberal are precluded from taking the same actions as the liberal alliance. Furthermore, because the threats of terrorism and humanitarian emergency present a political threat that is unique to liberalism decent states cannot be considered relevant actors, even though they are tolerated as members of international community.

Rawls strove in all his works for a "realistic utopia" that is, a society as close to utopia as could be realistically accomplished. Although I provide structural reasons why liberal states typically follow the rules of deliberative legitimacy, the international community is, as mentioned, messy and complicated, thus the fourth and final chapter addresses non-ideal theory and the possible pitfalls of liberal interventionism. The first objection addressed is the possibility of liberal abuse abroad. Although outright colonialism has often been cloaked in humanitarianism, I feel it is unreasonable to assume that liberal states would engage in such blatant conquest. Therefore, this section mostly focuses on the co-opting of humanitarian missions for private business interests. Although a tempting circumstance for the unscrupulous, my conclusion is that the multi-lateral decision making of the liberal alliance, when coupled with Rawlsian liberalism's strict limitation of private influence in government make such exploitation unlikely. Secondly, I consider the effect that prolonged conflict or war-footing has on domestic liberalism. Noting the tendency of states at war towards paranoia and corruption, I argue that in order to avoid being drawn into conflicts they need not be, the liberal states must take measures to provide public oversight to prevent bureaucratic incentives from taking over decision-making. Thirdly, I consider the relationship of force to legitimacy in a more abstract sense, reflecting an argument made by Hannah Arendt in *Reflections on Violence*. She argues that violence is the opposite of power, in the sense that a state only resorts to violence when its power or legitimacy is waning. There are some circumstances where violence is called for, but broadly I accept Arendt's critique and argue that the liberal states should seek to be extremely judicious in its employment. I take this as further evidence that liberal states must have strong domestic institutions capable and a rigorous politics of oversight and accountability to avoid expending their legitimacy in the form of force when it is not called for. Furthermore, I argue, as does

Rawls, that since material deprivation gives rise to the situations where force would be required liberal states ought to undertake a robust system of aid and assistance to other nations in order to avoid using force.

The challenge of this thesis is to show that Rawls's liberal alliance must occasionally resort to force in order to achieve its liberal foreign policy. In so doing, my thesis moves from the ideal theory and democratic peace into non-ideal theory when discussing the likely responses to of terrorism and humanitarian disaster. Discussing liberal responses to these problems, I revert briefly to an ideal theory of rules-based deliberation within the liberal alliance before turning to non-ideal theory and the many stumbling blocks facing nations which accept war as sometimes legitimate face. In this last section, I develop the main conclusion: just as democracy is not sufficient for a society to be just, force alone cannot stop illiberal forces. The roots of these problems must be dealt with as well, and liberal states must take care not to betray their own ideals even as they fight to protect them. The very ability of liberal states to fight legitimately against terrorism and crimes against humanity is a result of unique governmental structures that emphasize deliberation and consensus.

Chapter 1
Democratic Peace and the Liberal Order

Political philosophy has traditionally been inward looking, asking questions of justice and obligations on the individual level and building upward towards a state that can satisfy the needs of its constituents. While philosophers have often considered the role that state boundaries play in individual obligations towards one another (e.g. Singer's effective altruism) many have ignored the question of states' interactions with one another as distinct political units. Because many of the theories that do deal with such interactions develop their own rationale for state and citizen action, it is important to establish a common understanding of state interaction and behavior for the rest of this thesis. In this chapter, I will defend three premises that will serve as the basis for my argumentation. First, I will define the state and its role as the primary actor of concern in a philosophy of international relations. Second, I will draw on John Rawls's *Law of Peoples* to categorize states based on their government's arrangement and fulfillment of obligations to its citizenry. Third, I will discuss the theory of democratic peace and how it eventually contributes to the proliferation of more just, stable, and peaceable international community.

Defining the State

While there is no absolute scholarly consensus on what a state actually is, most scholars fall back on some form of the definition proffered by Max Weber. Weber's definition of the state broke with earlier conceptions by divorcing it from ends or aspirations and focusing purely on the means by which a state governs (Pierson 1996: 7). This distinction is critical to this thesis because it rests in large part on differentiating states from one another by their governing and moral systems. Thus, a definition of statehood independent that focuses on the commonalities

between states is crucial, as is setting aside the different means by which they achieve the legitimacy described in Weber's definition. Weber's definition of the state is:

> "A compulsory political organization with continuous operations will be called a 'state' insofar as its administrative staff successfully upholds the claims to the monopoly of the legitimate use of physical force in the enforcement of its order […]
>
> "It possesses an administrative and legal order subject to change by legislation, to which the organized activities of the administrative staff, which are also controlled by regulations, are oriented. This system of orders claims binding authority, not only over members of the state, the citizens, most of whom have obtained membership by birth, but also to a very large extent over all action taking place in the area of its jurisdiction. It is thus a compulsory organization with a territorial basis." (Weber 1978: 54-6)

There are a few things to note about Weber's definition. First, the monopoly on violence is concerned chiefly with the legitimacy and monopoly thereof, not the violence itself. That is to say, the state should not need to resort to widespread direct violence in order to impose its will if its will is generally considered to be legitimate. A corollary to the monopoly on violence that is not explicated by Weber but equally, if not more important is the "unitary order of violence" (Pierson 1996: 11). The modern state grew out of Europe's transition from feudalism to absolutism, a process that involved the consolidation of pluralistic sources of authority into one legitimating structure. Because of this, all states have maintained one ultimate source of legitimate power, primarily as a means to the pacification of their societies. Unlike feudal lords, who often found themselves "legitimately" in violent confrontations with one another despite ostensibly answering to the same sovereign, modern state violence is exercised hierarchically and in a distinctly downward direction (Pierson 1996: 11). Because of this, federal states can be constituted of different subordinate polities that are held peacefully together by the overarching state.

The second important aspect of Weber's theory is its emphasis on territoriality and continuity, i.e. the state's relative independence from its government. When the governing party of the United States changes from Democrat to Republican, it is not considered a change in state because the exercise of authority is legitimated the same way (through the US Constitution) across the same territory. New states only come into existence when the legitimating authority in a given area is changed. This can happen to an entire state, such as the replacement of divine right of the Tsar with the dictatorship of the proletariat as the legitimating authority in the Russian Revolution. It can also happen to a specific piece of territory, such as the replacement of the British Raj's authority with that of the Indian parliament in 1947. Conversely, states can be considered destroyed if their authority no longer holds sway in their territory, as happened to Austria upon its annexation by Nazi Germany in 1938 and the replacement of the authority from Vienna with the authority from Berlin.

The third piece of Weber's definition is citizenship. This is important to distinguish from territoriality because, while the state claims authority over everyone who is in its territory it is only the citizenry that "belongs" to that state even when outside of its borders. To be considered a citizen is to be recognized as having a special and formalized relationship with the state in question (Pierson 1996: 29). Citizenship covers a wide and often ambiguous set of obligations and privileges, but there are several broad trends worth exploring. While everyone within the state's borders may be entitled to protection by its power, only citizens are afforded access to its political system. Abstractly this is true even of authoritarian states that deny citizens democratic participation but may offer positions in the civil service or military that allows them to exercise power denied to mere residents. In exchange for these privileges states will sometimes levy obligations in exchange, but this phenomenon is less generalizable than the giving of privileges.

Regardless of its parameters, the offering of citizenship to a group more limited than the set of people within its borders is a key aspect of the modern state.

Why States

This thesis' line of argumentation will deal principally with contrasting states' international legitimacy through an evaluation of their government type. In the interest of creating an accessible metric by which to categorize states I will use the sorting system of John Rawls's *Law of Peoples*. However, before doing so I will defend my exclusion of a key element of Rawls's theory: the treatment of "peoples" rather than states as the meaningful actor.

Even before that discussion it is worth explaining another departure from Rawls via the exclusion of the original position. The original position is a thought experiment first introduced in Rawls's *Theory of Justice* wherein the measure of a society's justness is the ability of someone without any knowledge of their lot in life (e.g. sex, race, wealth etc.) could meaningfully consent into a society. Rawls reasoned that, people being generally risk averse, a society planned from the original position would be one that treated its lowliest members fairly because anyone planning it from the original position could end up as anyone within the society they planned. That is to say, without knowing what your circumstances would be, you would not create a society of great inequality and suffering and simply roll the dice on the fact that you would be a millionaire. Rawls's intent with the *Law of Peoples* was to apply this same rationale to an international system in order to see what would be considered just. This thesis focuses on the specific question of the legitimate use of force internationally and its relation to the goals of liberal states.

Rawls's decision to use peoples as his actors comes from his desire to place them in the original position. In reviewing this decision, he characterizes states thusly:

> "[states] are often seen as rational, anxiously concerned with their power – their capacity (military, economic, diplomatic) to influence other states – and always guided by their basic interests. […] How far states differ from peoples rests on how rationality, the concern with power, and a state's basic interests are filled in. If *rationality* excludes the *reasonable* (that is, if a state is moved by the aims it has and ignores the criterion of reciprocity in dealing with other societies); if a state's concern with power is predominant; and if it's interests include such things as converting other societies to the state's religion, enlarging its empire and winning territory, gaining dynastic or imperial or national prestige and glory, and increasing its relative economic strength – then the difference between states and peoples is enormous" (Rawls 2001: 28)

It is precisely this characterization of states that demands contention. Even before Rawls the realist conception of states as power-hungry was challenged by liberal theorists of international relations, and world opinion on the unlimited sovereignty of states has likewise shifted in the wake of the humanitarian disasters of the 1990s. But even if one accepts Rawls's characterization of states, it is important to understand that it is Rawls's reliance on the original position that drives his reluctance to write a theory of interstate relations. In describing a theory of legitimacy across nations, it is important to consider the actual conditions of the international community. The competing interests of states are what cause the non-ideal world that we live in. Given that this thesis deals with issues such as terrorism and crimes against humanity, it must presuppose non-ideal conditions in order to have a workable theory, and thus states must be the actor in question. Furthermore, Rawls's two primary concerns with statehood are their preoccupation with power and their sovereign power as the final authority in a given territory As they concern themselves with the way a society is ordered through governmental and other structures, Rawls's categorizations of peoples are easily applied to states.

Categories of States

It is important for clarity and brevity's sake to apply some sort of categorization to states based on their government and their peoples' conditions. Because of Rawls's stature there is ample literature surrounding the *Law of Peoples* and thus widespread understanding of his five categories of peoples (or states, for our purposes and heretofore in this thesis). These categories are meant to be useful shorthand for the general structure of the international community, and in several cases it will be necessary to explore cases more specific than the general conditions expressed in the categories. In these cases, the assignment of the states in those cases to one or another of the categories is too macro of a viewpoint and not particularly useful. Thus, the category of states should be treated as a label of convenience only applied when it is necessary to describe large groups of states.

Liberal States

The first category of states are liberal, in that they generally conform to a liberal-democratic constitution and conditions of the reasonable pluralism described by Rawls. Like Rawls, I feel that examining specific institutional structures that lead to a just constitutional order is too broad for the purposes of a work dedicated primarily to interactions between states. That said, there are a few characteristics that can be generalized to liberal states as a class: first, their governments are accountable to their citizens and are not dominated by the economic interests of one particular group. Second, they afford their citizens basic human rights and political participation, regardless of race, gender, religious affiliation, etc. While Rawls recognizes that "peoples" in his case are frequently organized along ethnic, linguistic, or religious lines it is reasonable that in order to be considered liberal a state must have structures that at least attempt to supersede these divides (Rawls 2001: 30). States like Germany or France would qualify as

liberal in this regard, as their dominant culture does not impede (legally) on the rights of their citizens that are not of that culture.

Decent States

Rawls describes decent non-liberal states as those that are necessarily tolerated by liberal states in the international sphere, although their internal structures may not be "just" in the liberal sense. They are necessarily tolerated as a fact of international relations. Although Rawls supposes a society of liberal peoples, he recognizes that the society cannot exist completely sealed off or at odds with the rest of the international community. In order to illustrate the qualities of a decent society Rawls imagines the fictional country of "Kazanistan." The dominant religion is Islam, and political life is only extended to Muslims, but believers of other religions are encouraged to develop independent cultural lives. Importantly, Kazanistan secures for its citizens most basic human rights, regardless of their religious affiliation. Also crucial for the decent label is the lack of territorial or other aggressive intentions (Rawls 2001: 77-78). In short, a decent society must secure basic rights for all its citizens, allow political representation to at least most of its citizens, and possess no territorial or otherwise aggressive ambitions. I will be looser with the last condition than Rawls, for it is true that many generally peaceful states lay claim to territory beyond their borders for historic reasons, but do not act upon them. In dealing with peoples Rawls was concerned primarily with their intentions in the ordering of their society from the original position, but as this thesis will be dealing with states I will allow for decent states to have ambitions so long as aggressive action is not taken.

Rawls defines a fifth category, benevolent absolutisms, as states that respect human rights but deny political representation. Here again I will part ways with Rawls and fold the category of benevolent absolutisms into the category of decent states for two reasons. First, there are many

societies that exhibit the behavior of Rawls's ideal but do not adhere to the various internal structures he desires. In a state like Turkey or Kenya, democracy may come and go depending on the government and power may be heavily concentrated in private hands. That said, for the purposes of the international community they are tolerable actors in that they mostly respect the non-political basic rights of their citizenry. Second, Rawls's limiting of political representation to participatory democracies is quite narrow for a work supposedly advocating toleration of "illiberal" states/peoples. Even in a one-party-state like China there can be said to be political representation in the form of advancement through centralized bureaucracy to progressively larger decision-making positions.

Burdened States

Burdened states are saddled with what Rawls describes as "unfavorable conditions." These conditions could include (but are not limited to) a lack of human capital, material resources, or political and cultural tradition (Rawls 2001: 106). Rawls is deliberately unspecific, but I will apply this category to "failed" states such as Somalia or South Sudan, whose authorities are unable to satisfy the basic needs of their citizens. Rawls's main distinction between burdened states and "outlaw" states (covered in the next section) is that burdened states do not harbor any designs on their neighbors. Thus, it is fair to assume that even states that have failed due to their own inability can be considered burdened, even though their "circumstances" are essentially of their own doing.

Outlaw States

Outlaw states refuse to abide by international law and willfully deprive or ignore the rights of their citizens. The definition of outlaw is in some ways dependent on the system of international laws in place, but there are some generalizable characteristics. States that commit

crimes against humanity generally speaking, such as ethnic cleansing or genocide, would be considered outlaw states. This is inclusive of incompetence that results in mass atrocities such as Mao or Stalin's famines, so long as they are willful, thus distinguishing them the burdened societies who have the inclination but not the ability to care for their populace. States that are belligerent toward other states in pursuit of territory or some other "unjust" goal are also considered outlaws.

Democratic Peace and the Expansion of Liberal Ideals

Realistically most of the world's states would fall outside the liberal category, and theorists of international relations have long struggled with how to square liberal ideals of toleration with governmental structures not their own. *Law of Peoples* is written in a philosophical tradition that begins with Immanuel Kant, that argues liberal cooperation necessarily leads to the expansion of liberal structures over the globe. This theory is grounded in the theory of democratic peace: the idea that democracies (liberal states) feel kinship and sympathy with one another and do not go to war with one another as a result. The liberal states, all at peace and cooperating one another, will provide an example for other states to emulate, eventually spreading their way of life everywhere. This section will situate this thesis within the historical liberal/democratic peace tradition, and discuss the role of issues such as membership and the relative weighing of external vs. internal conceptions of democracy moving forward.

The theory of democratic peace was first proffered in Kant's 1795 essay *Perpetual Peace*. Kant's essay starts with a series of preliminary conditions for the establishment of perpetual peace, including the abolition of standing armies, national debts, and "dishonorable" espionage (Kant). These preliminary conditions have resurfaced from time to time in

international thought, particularly after the First World War, but have for the most part been discarded by subsequent liberal theorists as fanciful (even in Rawls's ideal world). Kant provides the argument for "definitive" peace in the next section, stating that all states should possess a republican constitution, that the republics should band together in a league of peace, and that world citizenship should be unlimited (Kant). To the first article, Kant considers non-republican states to be essentially "formless" because they do not properly channel the will of the citizenry. For Kant, the citizen-focused nature of republican governments secures peace because the citizenry, having to bear the costs of the war both human and economic, will be unwilling to casually commence one in the manner that a despot, who does not need to personally bear the costs, is able to. Because of this, Kant claims, it is natural that the citizens of the various republics would form their states into a "League of Peace" dedicated to the prevention of warfare and the expansion of republicanism through example. Although Kant's mechanisms are somewhat unclear, and many argue that he meant "republic" in the semi-aristocratic sense of the early United States, he laid the groundwork for future scholars of liberal foreign policy.

Rawls explicitly situates *Law of Peoples* in the tradition launched by Kant, going so far as to say that, "the basic idea [of the argument of the *Law of Peoples*] is to follow Kant's lead [in *Perpetual Peace*]" (Rawls 2001: 10). The basic trajectory of Rawls' argument follows the same path, but he makes several changes. Firstly, Kant's preliminary conditions are dropped, and states are presumed to have standing armies and other means of defense (including treaties and espionage) although their use is severely limited. Secondly, Rawls dispenses with Kant's notion of a federated "League of Peace" in favor of a looser "society of peoples." Kant sought overarching authority in order to secure the rights of the liberal citizens and to constrain national ambition. Eventually this federation would consist of every state on earth and would effectively

be a world government. While Rawls does believe the democratic peace between liberal states will eventually spread, he does not necessarily envision its spread to every corner of the globe. Given the facts of "reasonable pluralism," or the abundance of different beliefs and notions of the good life, it would be contrary to liberalism's own instincts for toleration to presume that non-liberal states were unjust on the face of it. Rawls' distinctions between states now come into play in understanding what kinds of governments deserve our toleration. However, even with broad principles of toleration in place Rawls accepts that the basic mission of his liberal foreign policy is to eventually spread those ideals throughout the world.

Conditions for Inclusion in the Liberal Society

This thesis, as with Kant and Rawls, places a "liberal society"[1]at the forefront of its analysis. For supporters of the democratic peace such an organization is a natural outgrowth of the peaceful cooperation between liberal states. Although acknowledging Rawls's limited concern for the more technical aspects of contemporary international relations theory, Chris Brown tentatively places Rawls within the "English School" by virtue of his support for a "society" of like-minded states (Brown 2002: 12). The members of the English School believed that even in conditions of anarchy states' overriding concern is restricting violence much as domestic societies is. Unlike the realists who maintain that power is the sole concern of states, the English School is at least amicable to Rawls's distinction between the "rational" and the "reasonable" – allowing for the power of shared ideals to shape "societies" of states just as much as self-preservation (Bull 1984: 1-2).

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[1] For precision's sake I will refer to this liberal society as the "society of liberal states" or simply "liberal states" in order to make clear that I am referring to the organization of states that are liberal as opposed to a single state whose society is organized along liberal lines.

Who is to be included in the society of liberal states? In non-ideal theory, it must be accepted that states exist on a spectrum of justice and that there will be borderline cases between the liberal and the decent, or even between the decent and the outlaw. In these cases, it is stability of institutions that must be preferred. This means that in borderline cases where a domestic situation may be closer to decent than liberal, a state's cooperation with the existing or more entrenched members of the society of liberal states can make the difference. While it is not unreasonable to argue that a state like China has a just internal system for delivering goods to its citizens, it hardly plays by the rules of liberal states and frequently behaves aggressively. A state such as India on the other hand, while rife with corruption and economic problems, at least attempts to progress toward a more liberal government and more importantly cooperates with liberal states and (with limited exceptions) abides by the guidelines set up by them. In these types of cases, we will assume that the state that is more willing to cooperate with liberal states will be given the benefit of the doubt, while those that are not will be excluded regardless of internal justice. Again, it is important to emphasize that this test applies in "borderline" cases – Saudi Arabia does not deserve inclusion in any society of liberal states merely by its friendship of convenience with the states in question

This preference for inclusion via cooperation allows states to become a part of the peaceful and stable order established by cooperation with other liberal states. Seeing as liberal states will not be in conflict with one another it allows the kind of flourishing of society that naturally leads to more just internal structures in the first place. One of Rawls' key arguments in *Law of Peoples* is that political evils such as radicalism and intolerance come from instability and material depravation. If issues of subsistence and basic protection are settled, people will naturally turn to more abstract questions of political structure and representation. In preferring

cooperation with liberal countries over some sort of strict constitutional test the goals of liberal

foreign policy are achieved through the promotion of stability and through the plausible

expansion of liberal governance to the rest of the world.

Chapter 2

The Necessity of Liberal Intervention

The goals of the liberal society described by Rawls and Kant are fundamentally pacifistic. In order to spread just political structure and promote unity of states there must first be peace. Kant proscribes arms altogether while Rawls, save an unelaborated admission that humanitarian crises sometimes require military responses, allows for force only in self-defense. In this section I will outline two exceptions that I argue are necessary for the achievement of the peaceful world toward which the liberal society strives. In the case of international terrorism, it is necessary to preempt attacks that have the potential to destroy liberal governance through fear. In the case of humanitarian disasters, it is necessary for liberal society to do all within its power to stop them, or else the liberal project will lose legitimacy as a provider of peace and prosperity.

Modern International Terrorism

While there is no universally agreed upon definition of what constitutes terrorism, the purpose is always "to destroy the morale of a nation or class, to undercut its solidarity; its method is the random murder of innocent people" (Walzer 2015: 197). The use of terror has existed as long as warfare, but the addition of the ideological "-ism" suffix is unique to a modern conception of warfare that treats civilian lives as separate from those of combatants and thus worth preserving. While political terror in the modern sense started with state terror (Chaliand 2016: 95-6) in the French Revolution, its modern iterations – particularly since the Second World War – has been characterized by small groups using terror as a force multiplier against forces significantly more powerful than themselves (Chaliand 2016: 222). In the late 20th Century terrorism was primarily associated with nationalist causes such as the reunification of Northern Ireland with the Republic of Ireland, the freedom of Algeria from French colonialism, and the

freedom of Palestine from Israeli occupation. With the exception of the Palestinian Liberation

Organization (PLO), these organizations duly focused on terrorizing specific adversaries and did

not extend their influence internationally. As early as the Soviet Invasion of Afghanistan this

began to change, and the roots of modern international terrorism began to take hold.

The modern terrorist organization is defined by its fragmented nature and lack of formal

hierarchy, a development that is the result of several trends. First, the philosophical shift from

finite political goals, usually limited to one country (i.e. the Provisional IRA seeking to include

Northern Ireland in the Irish Republic) to global ambitions that seek radical change in many

countries (Ganor 2011: 29). In the late 20th and early 21st Centuries this has been exemplified by

radical Islamist terrorism that seeks to destabilize Western and Western-backed regimes in order

to impose "true" Islamic government in place of secular or otherwise "apostate" governments

(Brookings Institution 2015). These organizations have been the dominant focus of both

government and academic study, but for the purposes of this thesis the threats they represent

could also be rooted in any revolutionary ideology with the destruction of current governments

as its goal. The second trend accelerating the internationalization of terrorism is the modern

media environment, particularly the internet. The ability to communicate on the internet allows

terrorist networks to access and inspire recruits without ever having to meet them. This has been

a significant factor in the rise of "homegrown" terrorism; terrorists ideologically aligned with the

"parent" group but not necessarily involved organizationally (Ganor 2011: 32). Furthermore, this

allows the parent group to plausibly claim attacks that it had nothing to do with organizationally,

further spreading its ideology, influence, and destabilizing effects with minimal cost or

traceability. Importantly, this unifies the threat posed by organizations such as Al-Qaeda and the

Islamic State (ISIS) that otherwise differ in their preferred targets. The third trend is the ability of

terrorist organizations to move funds across borders. This further separates the planners and executors of terrorist actions, allowing the leadership to fund attacks that are independently planned and carried out. It also allows financiers of terrorism to better remain at arm's length, increasing its attractiveness to states as a tool of policy.

The Threat of Terrorism to Liberal States

Let us postulate an anti-globalization and anti-liberal terrorist organization whose ultimate goal is the destruction of the liberal order described by Rawls and a return to the inviolable sovereignty of the pre-WW2 world. They have secured the backing of several wealthy financiers around the globe who consider the organization's cause to be just, and have used the money and connections to obtain a strain of a heretofore eradicated disease from a biological weapons research facility. Seeking to strike a blow against liberal states in general, but particularly the world financial order, they endeavor to release the disease in the financial capital of a large liberal state. The disease quickly takes hold and after several weeks results in the essential quarantining of the financial capital, a plunge in world markets, and, after the terrorist organization claims responsibility, widespread fear and panic. The next parliamentary elections result in a victory for the party which promises overbearing police presence, random searches and testing of those suspected of carrying what is now an epidemic disease, detainment and quarantining for those found positive, and curtailment of public assembly due to the risk of infection.

The Liberal-Democratic Dilemma

The above scenario, however hyperbolic, is exemplary of a conundrum facing liberal states who become the targets of terrorist organizations – the difficulty in preventing attacks and

upholding public trust while simultaneously adhering to the rights and processes of their liberal

constitutions. To be clear, the vast majority of terrorist actions are tragic but not catastrophic.

Infrequent and unprofessional attacks executed by one or two people acting alone do not pose an

existential threat to liberalism. That said, any terrorist organization serious about bringing down

an entire government longs for the opportunity to destroy an entire city or something

comparable, for without such a scale the legitimacy of government protection will not be

challenged. The easiest way to prevent terrorist attacks from occurring would likely involve a

kind of universal citizen database coupled with round-the-clock surveillance. Here, anyone

suspicious could be instantly detained and their background and travels known – cracking open a

vial in a subway or leaving a car for too long in a lobby would be impossible without a law

enforcement response. Such a state, while undoubtedly safe, does not secure its citizens the same

rights as a liberal democracy and would probably be miserable to live in anyway. If the purpose

of a liberal state is to allow for all kinds of people to live together pursuing their own individual

interests then such a state as described above is untenable and fundamentally illiberal. Boaz

Ganor, a scholar of international terrorism, has described this as the "liberal-democratic

dilemma" which is described as follows:

> "the more inclined a decision maker is to safeguard his state's liberal democratic
> values, the larger the berth given the terrorist. Conversely, a decision maker who
> is willing to compromise liberal democratic values to combat terrorism verifies
> the terrorists' claim that they face an immoral, illegitimate regime" (Ganor 2015:
> 35)

In other words, this is not just a problem of the erosion of liberal values for the state, it is also a

problem in that it cedes further moral ground to the terrorist organization itself that claims liberal

regimes are fundamentally illegitimate. Further complicating matters is that, in a liberal

democracy, decision makers do not act in a vacuum; they must answer to electorates and face the

pressures of other politicians who may try to outflank on issues of safety and security in the wake of a deadly terrorist attack. These pressures lead decision makers to make compromises on issues of civil liberties that, while minor at first, undermine the legitimacy of the regime as liberal and democratic.

Rawls's political liberalism is closely tied up with the notion of "reasonable" citizens: those who accept that others have differing comprehensive views of the good (reasonable pluralism) and wish the government to legitimately govern in a manner that respects this fact. Accomplishing this feat involves the limitation of discourse to "public reason" that is not reflective of any one comprehensive vision of the good: thus allowing all people, regardless of personal identification with a religion or ideology to build democratic coalitions and govern together. So long as citizens remain reasonable liberal states so conceived are resilient to the worst excesses of the liberal-democratic dilemma such as targeting specific ethnic or religious groups due to perceived affiliation with terrorist organizations. It does not, however, completely insulate liberal states from self-destructing by way of civil liberties curtailment. Reasonableness, as defined by Rawls, is contingent upon conditions of reciprocity wherein all citizens could reasonably be expected to adhere to the laws which are passed. Even the perception of having one's safety compromised can be enough to change what people are "reasonably" expected to bear. While it may not be reasonable to put up with closed-circuit TV cameras on every street corner for safety before a terrorist attack, the aftermath thereof – including the potential talk of ways it could be prevented – may be sufficient to convince otherwise dedicated liberals that safety should be prioritized. Rawls himself argues in the *Law of Peoples* that there exists a concrete hierarchy of needs and it is a lynchpin of the entire theory that civil and political rights are essentially the last thing to be achieved. Burdened states, we are told, cannot possibly

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become liberal until their state of material deprivation is ameliorated. Similarly, outlaw and decent states will not become liberal until the needs of safety and security have been established via the growing democratic peace. If safety and security is a requirement for liberal governance than it stands to reason that the deprivation of safety and security by a large-scale terrorist attack would lead to backsliding out of liberalism.

Not only is this a problem for the citizens of the state in question who are now choosing to live under increasingly illiberal conditions, it is a problem for the society of liberal states in general. The liberal project is one of quiet expansion by example: states seeking security and material gain will gravitate towards the liberal states who, due to the freedom afforded their citizens and peaceful coexistence with one another, are premier providers of both. In a process of conversion, the loss a prior convert is the obvious set back, but there are also optical challenges that such a situation would pose for the society of liberal states writ large. In both Rawls and Kant's formulation of democratic peace the regime change is affected by mutual consent of the people in states transitioning to democracy. They do so because they want the security associated with being in the society of liberal states. However, if safety and security are prerequisites for liberalism, then presumably liberalism – the next step, as it were – should be able to retain the security they achieve. In the traditional theories, this is explained by the democratic peace theory i.e. because the main threats to a state's security are other states it is the immersion in a group of peaceful and allied states that will bring it the most safety. This assumption of security is lost at the point when non-state actors pose as great or worse a threat to people's safety than other states do. It is in this manner that the terrorist attack which poses a danger to the citizens of only liberal state poses an acute political threat for the entire liberal project, and thus the goals of all the liberal states together.

The Necessity of Preemption

If we assume that attacks of the nature described are inevitable eventually and if liberalism is this valid to terrorist attack then the only solution to such a problem is the prevention of the attack in the first place. Law enforcement and traditional methods of crime prevention would hopefully be sufficient to prevent any such attacks being planned and orchestrated from within liberal states. However, it is likely that at least the leadership of a terrorist organization will operate outside of the target country for the reasons mentioned above: it separates them from the people actually executing the attack, providing an intelligence break, and it allows them to better plan multiple actions at once. Thus, the only option remaining for a liberal state wishing to stay safe is an attack on the leadership of the organization, without which a catastrophic attack could not be orchestrated. It would be valid, at this point, to challenge this thesis on the grounds that it had set out to expose a flaw in the democratic peace theory (that liberalism cannot be sustained in the face of terrorism by self-defense alone) and that now it appears to suggest the solution is preemptive strikes on terrorist organizations: an action commonly understood as self-defense. Superficially this challenge is correct, and it is indeed deeper in the intent and practical considerations of the preemption that the differences with self-defense lie.

The difference in intent lies with the collective political goals of the society of liberal states. While they may differ slightly in structure, size, economy, and individual goals they are all fundamentally linked through peaceful cooperation in the society. Furthermore, the society is not merely a club for like-minded states, it exists with a particular goal in mind in the form of spreading liberalism. While narrow conceptions of self-defense such as Rawls's may permit a state to strike terrorists outside its border if there is conclusive evidence of an imminent attack it

does not reflect the threat such an attack would pose to the collective. Importantly, it would not allow the liberal states as a collective to launch a preemptive strike. The collective element, which will be explored in depth in the next chapter, is essential for the maintenance of international legitimacy by the society of liberal states and thus the accomplishment of its goals.

The second element that divorces the actions of the society of liberal states from self-defense is the question of imminence and the unique position that terrorist organizations assume in the discourse of conflict and defense. An anticipatory strike is only permissible if conditions point to an imminent attack, and while those days and weeks before a specific action do exist with terrorist organizations they are also in the unique position of being in a state of conflict without very much shooting. The leadership of both the organization and the liberal state being targeted are hostile to one another even when not directly engaged. This limbo is worrisome for the society of liberal states and its plans for preemption. Similar considerations have allowed the United States to justify a campaign of targeted assassination that has resulted in many civilian deaths which has in turn been used as a recruiting tool for the very organizations being targeted (Cronin 2013: 48). Combined with the electoral incentive of "doing something" which could potentially spur further action even when not totally supported by intelligence the risk of slipping into such an overzealous campaign is significant. Here the collective action of liberal states is important, as acting together to defend political ideals rather than working unilaterally to prevent the deaths of citizens leads to a very different political calculus, wherein the ability to defend an action afterwards on the basis of liberal values is more important than immediate action. While intelligence gathering by nature is conducted in secret, one of Rawls's conditions for a liberal constitution is the ability to hold their government to account. Given that liberal societies concern themselves primarily with peaceful coexistence it is logical that people within those

societies would demand high standards of evidence from their governments if those governments were forced to use force abroad.

Humanitarian Intervention

For Rawls, a crucial condition for liberal foreign policy is stability. Without stability, there will be no spread of liberal ideas and structure which the society of liberal states relies on to provide world leadership will be undermined. Rawls admits that in his non-ideal theory there will be outlaw states which abuse their own citizens and commit crimes against both them and other nations. Responding to outlaw aggression is the only time that Rawls considers it necessary to turn to armed force. The *Law of Peoples* contains tacit endorsement for such harsh dealings with outlaw states: "Outlaw states are aggressive and dangerous; all people are safer and more secure if such states change, or are forced to change, their ways. Otherwise they deeply affect the international climate of violence and power" (Rawls 2001: 81). This, however, is a somewhat lukewarm appeal when considering the scale of the issue. Not only do such states pose a threat to the stability of the international system, their actions have the potential to undermine liberal states in similar ways to terrorist threats, as well as posing a direct threat to liberal leadership.

The Threat of Humanitarian Disaster

Let us imagine a decent state which, in the throes of an economic crisis, becomes seized by an authoritarian movement based on the rediscovery of a past national spirit. After disputed elections the state's armed forces intervene and hand power over to the authoritarians, who begin remaking the state in their image and launch a propaganda campaign ascribing the nation's woes to the presence of a long-suffering religious minority. As liberal states are free not to tolerate

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outlaw states the state has fallen under sanction from the society of liberal states as well as many decent states and the economy begins to spiral. Digging their heels into their xenophobic rhetoric the regime begins a large-scale expropriation campaign against its scapegoated religious minority, leaving much of that population destitute and without income. Reporters and aid workers are denied access to those areas of the country, and while abuses are excused as military overzealousness what few reports do manage their way out of the country seem to indicate the early stages of an extermination campaign. Ad-hoc militias are founded to defend the religious minority, and as the state descends into anarchy millions of refugees begin making their way towards nearby liberal states that offer them shelter. Despite fierce condemnations from the society of liberal states and others on the world stage, the lack of substantive support to the rebels begins to wear thin on their leadership. In their desperation, the rebels turn to another outlaw state nearby which attempts to weaken the original state using the insurgency. In the liberal states where refugee flows are the heaviest there is increasing paranoia: under the aegis of the second outlaw state the religious insurgents have expelled others from their territory, thus escalating the atrocities on both sides. Wary of such a group of people being deposited on their doorstep many liberal states enact stricter immigration laws, further exacerbating the feeling of abandonment on the part of the insurgents as well as the amount of people trapped in the war zone in the first place.

Untrammeled migration and massive refugee flows pose the first and most immediate threat to liberal states created by humanitarian emergencies. Rawls did not doubt the ability of liberal ideals to persuade and take in new adherents to the cause, but he was likewise realistic when considering both the rate at which this happened as well as the necessity of keeping a firm majority of committed liberals, the reasonable citizens, in control while the assimilation

occurred. Thus, so long as a liberal state is committed to giving new migrants their liberty of conscience and of speech there exists the possibility that said state will be exposing itself to unreasonable comprehensive conceptions of the good. Even if the new members of the liberal state do not adhere to unreasonable doctrines there is the possibility that their presence will awaken other unreasonable elements within the liberal society. So long as there are people who feel fear towards others or a confusion at other beliefs there will be upsetting turns in liberal political culture when large numbers of other people enter into the country. Compounding this problem is the condition of these migrants, who likely have had to flee without much property, thus putting them on the lower rungs of the society into which they arrive. Unlike some of the other problems raised in this thesis, Rawls himself considered unchecked immigration to be something of a problem for liberal states, albeit one that would disappear in his realistic utopia (Rawls 2001: 8-9). Rawls felt that migration would not be an issue in the ideal world because the conditions under which it occurred would not exist. All else being equal, Rawls reasoned, people would prefer not to leave the places where they born and where they shared extensive ties to those around them. They would be even less likely to forsake a political community built from their own – something stipulated to be true of decent as well as liberal states. Some people would move for employment opportunities or other reasons, but we would not see the mass-migrations of the kind caused by widespread trauma and poverty.

The secondary threat to liberal states is to the idea of liberal leadership. That the liberal coalition will provide an example of peaceful commerce and cooperation is a crucial element of both Rawls and Kant's theories of international relations. This leadership espouses universal human rights and calls for liberal governance, which is in turn achieved as states are brought closer into the orbit of the liberal peace. Since peace creates commerce, Rawls reasons, decent

states will be drawn to the society of liberal states (which will be commercially powerful, since it is peaceful) and in turn those states will either gradually liberalize or be at least tolerated by liberal states. However, imagine the perspective of a citizen in an outlaw state whose government is flagrantly violating human rights standards. Knowing that this is an issue on which liberal states prize their leadership one would naturally turn to those states, asking for help in dealing with the outlaw state's excesses. Were one rebuffed in this situation it would be understandably devastating, both personally as well as to your view of the society of liberal states. Furthermore, when one considers the position of, for example, an opposition leader whose people are being massacred, it does not seem unreasonable to continue seeking help elsewhere. Perhaps there is a decent state sympathetic to your cause that will provide you with armaments on the condition of a say in government once you win. Perhaps there is an outlaw state who wishes you to become independent and will help you achieve that goal if it means weakening a rival and creating a puppet. Even if no massive refugee flow is created inaction on the part of liberal states is potentially devastating to their leadership role in the world order.

The Necessity of Intervention

Working backwards from Rawls's reasoning on how immigration was liable to disappear we see the necessity of humanitarian intervention to alleviate those same issues before they lead to a potentially crippling exodus of people. The use of force may not always be called for depending on the severity of the outlaw state's infractions, but it is important to recognize the forceful dimension even benign aid efforts often require. For example, during Operation *Provide Comfort,* the UN-sanctioned US-led no-fly-zone over Iraqi Kurdistan and corresponding aid program after the Gulf War, very few Allied planes saw action against the chastened Iraqi Air

Force. The military presence was nonetheless crucial in order to allow successful aid delivery to the Kurdish refugees in the no-fly-zone (Global Security). Thus, in order to secure the rights of the oppressed in outlaw states the liberal states must take actions against the sovereign control which outlaw states possess over their territory. This also helps prevent the intervention of other, less savory actors who may have an unwarranted interest in the humanitarian situation. "Boots on the ground" are also required at least to a degree to ensure a smooth transition towards whatever government is desired after the humanitarian crisis. Liberal states should not expect humanitarian intervention to be a short process, for if they left the world with two outlaw states rather than one the enterprise would be useless. The rule of law and basic security must be provided as soon as possible. This is in keeping not just with stability as a precondition for just government, but also a simple fact of human conflict – that people tend to want revenge on those who have done them wrong. For this reason, it is not advisable to rely solely on those who were victimized by the outlaw state's government to supervise the reconstruction effort. The eventual goal of a liberal intervention should be a mutually consented to governmental structure. It need not necessarily be liberal, but in order for at least a decent government to take hold in a traumatized former outlaw state the steadying hand of a third party is required.

A final note on the necessity of militant humanitarianism is on the need for stability "for the right reasons." Rawls does not fetishize stability or the balance of power the way that Metternich or Bismarck did, for those were stabilities made up of competing despotisms. Rather, Rawls hopes that a liberal-led world would be stable because just systems established under its guidance would be naturally stable. Domestically Rawls explored this principle with the overlapping consensus which, due to its ambivalence about any comprehensive conception, is both stable and stable for the right reasons. A country that was 100% Muslim or Catholic or

Buddhist and promoted its respective creed would likely be stable as well, but that state would not be stable for the right reasons and thus does not qualify as a liberal state. Hyunseop Kim, a scholar exploring Rawls's treatment of stability, notes that there are probably "cheaper" ways to oppose outlaw states than those Rawls suggests. For instance, liberal states could effectively bribe outlaw states by allowing them to participate in the liberal-decent international market in exchange for non-aggression (Kim 2015: 489). However, such bribery (which would strengthen the dictator by allowing them access to global finance) would not be achieving stability for the right reasons. Liberal states are not expected to be cheap in their protection of human rights because to do so would be to abandon their commitment to liberal governance, which requires strict adherence. Similarly, while closing one's borders to asylum seekers provides a much easier solution to mass migration than actually dealing with the root cause, it smacks more of avoidance than of properly solving the issue (Kim 2015: 490). Furthermore, as evinced by Rawls's own discussion of the lead-up to the Second World War, agreeing to negotiate and flatter aggressive dictators does nothing other than stave off the inevitable. Rawls's characterization of outlaw states is of intractable agents of chaos, states that have total disregard for anything other than their own continued amassing of power. If true of outlaw states there is no recourse besides "changing their ways" as Rawls himself puts. Even aside from strategic stability concerns, a state which earns the outlaw moniker through actions against its own people or other states demands accountability from the international community, or else the perpetrators of those crimes would never have to face justice.

Chapter 3
Legitimacy and the Use of Force

Having demonstrated that the society of liberal states may be forced to defend its goals by force, the question now becomes whether the force described in the last chapter would be legitimate, particularly in the case of non-compliance by the state in which the actions take place. In answer, this chapter will be broken into three related parts: first, it will clarify the nature of legitimacy. Second, it will undertake a brief study of different theories of legitimacy, moving through traditional conceptions of sovereign authority in just war theory to the modern analytical and normative theories found in international relations theory before settling on a hybrid deliberative theory grounded in Habermas's discourse ethics. Third, it will apply the deliberative theory to the society of liberal states, finding the narrow use of force in defense of the democratic peace legitimate as well as discussing the effect of legitimacy outside the society of liberal states.

What is Legitimacy?

Broadly speaking, legitimacy refers to the voluntary submission of actors to legitimate authority. In order to understand the generation of legitimate authority I will first explain its function domestically before turning our focus outwards to international legitimacy. While states may, as described by Weber and discussed in Chapter 1, be defined by their monopoly on legitimate force, but within their territory it is the legitimacy, not the force, that induces compliance in their populace. When a citizen pays her taxes, it is not merely the threat of force that convinces her to do so, but rather the knowledge that, were force to be employed, it would be accepted by nearly everyone that the state was *justified* in using the force. Without such a distinction states would be little more than complex protection rackets, but while everyone

acknowledges the ability of both the state and the Mafia to extract money from people, only the state is accorded the authority to do so. This is a result of the legitimacy of the state system.

How does a system become legitimate? In Chapter 1 we discussed the "unitary order of violence" (Pierson 1996: 11) that emanates from a single source of legitimate authority. Weber posited the three following sources of legitimacy. Traditional authority derives its legitimacy from the continuation of habits and traditions, as in an aristocracy or a monarchy. Charismatic authority derives legitimacy from the charismatic leadership of a particular individual rather than any institutional authority, as in a dictatorship. Finally, rational-legal authority relies on the legitimating processes of a constitution and democratic governance (Weber 1978: 56-8). These concepts have become muddled in the years since Weber first proposed them. Iran, for instance, could be said to have charismatic authority from the Ayatollah but rational-legal authority from the President and while the US has rational-legal authority from the Constitution various presidents have benefited from charismatic authority. That said, they will suffice as explanation of the concept, which is that people need a reason to believe in the authority to which they are submitting beyond the mere threat of violence, or else it cannot be considered legitimate authority.

When one moves to the use of force internationally the question becomes more complicated, since there is no unitary source of authority as there is domestically. Since all actors arrive at their decisions more-or-less independently legitimacy takes on an important new dimension internationally because condemnation rarely has coercive weight behind it. Superpowers with little to materially fear from coercive measures will step back in the face of certain kinds of international condemnation, while outlaw regimes who plausibly face existential threats from international coercion regularly defy other kinds of condemnation. The key

difference is what the international community views as legitimate, and often what domestic audiences feel about the legitimacy of their state's actions abroad as well.

This chapter is concerned with a narrower question of legitimacy: the use of force by a society of liberal nations in preemption of liberal-value-undermining catastrophe at home and the use of force in preventing or ameliorating similar catastrophes abroad. This thesis has made it plain that these problems exist uniquely in their relation to the society of liberal states' goal of spreading liberal government to other states. Thus, the use of force must not only in and of itself be considered legitimate, the granting of this prerogative to liberal states to the exclusion of all others needs to be legitimate as well.

Theories of Legitimacy

The Classical "Authority" and Aquinas

Possession of "legitimate authority" is one of the seven conditions for the prosecution of a just war. In the beginning, the theorists taking up questions of just war vested this authority only in the sovereign themselves. This is a reflection, primarily, of two facts of Continental European life during the High Middle Ages and Renaissance: the gradual strengthening of central authority at the expense of the feudal aristocracy, and unchallenged faith in the divine right of kings. By understanding the way in which the times impacted early theories of legitimacy, and how those theories undergirded a worldview where sovereign (read: European) states had untrammeled access to "just" use of force despite their true intentions this section will attempt to provide a historical and systemic basis for differentiating the society of liberal states's use of force from thinly veiled imperialism. In particular, this difference in intent, along with the balances afforded by liberal-democratic governance, will allow us to engage with those

(including Rawls and Kant) who deny that the non-defensive use of force can ever be considered legitimate.

Thomas Aquinas, one of the first rigorous examiners of just warfare, lived in a time of decentralized political authority and violence. As was alluded to in Chapter 1, the feudal system distributed authority through numerous hierarchies, each of which was frequently perceived as having legitimate authority over local areas. Because the *de jure* sovereign and other upper levels of the hierarchy relied on the cooperation of the lower levels to fill their armies and war chests, it was frequently the case that little could be done about conflicts throughout the system, regardless of their legitimacy. Although Aquinas was foremost a theologian and philosopher, he was also concerned with the temporal impact of his teachings, exercised through the Catholic Church. James Turner Johnson, himself a theologian and political theorist, identifies Aquinas's more worldly concerns as control of certain actors; namely, that spiritual and non-sovereign authorities should be denied the recourse to armed conflict (Turner 2015: 25). Unlike Thomas Hobbes or other more straightforwardly authoritarian thinkers, Aquinas's mistrust of non-sovereign authority stemmed not from the lower-level violence, but rather from his belief in the higher-level's responsibility and essentially moral nature. For Aquinas:

> "it does not pertain to a private person to declare war, because he can prosecute his rights at the tribunal of his superior; similarly, it does not pertain to a private person to summon the people together, which must be done in time of war. Rather, since the care of the commonwealth is entrusted to princes, it pertains to them to protect the commonwealth of the city or kingdom or province subject to them […] Hence it is said to princes at Psalm 82:4: 'Deliver the poor and needy: rid them out of the hand of the wicked.' Hence also Augustine says: 'the natural order accommodated to the peace of mortal men requires that the authority to declare and counsel war should be vested in princes'" (Aquinas 2002: 240).

The sovereign's authority to declare war is thus explicitly bound up with the divine responsibility accorded to them by virtue of their position. Such authority cannot be wielded by private

persons, for whom the destruction of evil and protection of the innocent is outside the purview of. Furthermore, beyond the most immediate instances of self-defense, they cannot use force of arms in pursuit of personal justice, as there is a higher power to which appeal is always possible. For sovereigns, such disputes can rightfully be adjudicated by armed conflict as there is no immediately available higher power to hand down a judgement.

Importantly for questions of legitimacy, Aquinas does not dispute the existence of ill-intentioned sovereigns or the importance of right intention. He does, however, consider the position of sovereign to be imbued with unique responsibilities for the general welfare of people. In discussing obedience to unjust laws, Aquinas asserts that Christians have the duty to resist laws that call on them to violate God's laws and, crucially, that this would constitute a "[command] by the ruler [which] is contrary to the purpose for which the ruler was appointed" (Aquinas 2002: 73-4). That is to say, were rulers primarily exercising their divinely-appointed roles correctly they would not stray from justice in administration or conflict. Aquinas's arguments for the illegitimacy of unjust laws show his clear-sightedness about the nature of powers, but his unfailing belief that sovereigns are, generally speaking, just continues to be echoed in more permissive conceptions of sovereignty and the use of force.

Grotius

The Westphalian state system of sovereignty and non-intervention existed more or less unchanged from the eponymous treaty in 1648 to 1945, and since then it has only been eroded on the margins. The philosophical architect of this new sovereignty was Hugo Grotius, one of the first secular scholars of just war theory and one of the seminal figures in international law. Grotius ended up with many of the same conclusions as Aquinas where authority and war were concerned, but he famously couched them in reasoning that would stand even if God did not

exist. Grotius further differed from Aquinas in the manner in which he arrived at the authority of sovereign states, reasoning upward from the rights of individuals rather than downward from the sovereign's contract with God. His reasoning that, "the power of the state was the result of collective agreement" (Grotius 2014) seems superficially identical to the later social contract theories of Hobbes and Locke. Grotius, however, considered the state less a protective or rights-securing agreement than as an effort in mass-mobilization and control, writing that, "as the body is the common subject of sight, the eye the proper; so the common subject of supreme power of the state […] the proper subject is one or more persons, according to the laws and customs of each nation" (Grotius 2014). This is to say that while I see with my eyes, they themselves cannot see. In his metaphor the government is the eyes while the body is the collective polity that is acting through the government just as the entire body sees through the eyes (Tuck 2001). Thus, the sovereign is legitimate in defense of its people because the sovereign is an extension of those people and an instrument for the expression of their will. That said, just as we cannot will ourselves to see differently, Grotius did not believe that the people had that much to do with the will that their sovereign expressed on their behalf. In a section dedicated to "The opinion of those, who maintain that the Sovereign Power is always in the people, refuted, and their arguments answered" Grotius defends the right of unrestrained rule. Grotius held a personalized notion of the polities he described, one that could freely consent into agreements with itself about sovereign authority. Following from this, he argued that it was free to essentially enslave itself to, for example, a hereditary monarchy in exchange for safety and security (Tuck 2001). He did not deny that it was sometimes necessary for this group to change its nature, but he argued that would be less a transformation and more a suicide (Tuck 2001), confirming his absolutist view of sovereign authority.

It is clear from Grotius's eye metaphor how he arrives at the legitimate state interest in self-defense (an attack on my eye being very much an attack on my body generally) but his theories regarding offensive wars have arguably had a larger, and more negative, impact than his absolutist sovereign authority. Grotius lists, among others, "wars of plunder […] Desire of a better soil – Discovery of things belonging to others […] Emperor's pretensions to universal empire refuted – Pretensions of the Church" (Grotius 2014) as unjust causes. Even so, in addition to the usual just causes (self-defense, rectifying injustice) Grotius includes the possibility of expansionist wars against, essentially, non-European states:

> "Upon this principle [of punishing those who go against natural law] there can be no hesitation in pronouncing all wars to be just, that are made upon pirates, general robbers, and enemies of the human race. So far this opinion agrees with that of [Pope] Innocentius and others, who maintain all war to be lawful against those who have renounced the ties and law of nature. An opinion directly the reverse is held by Vitoria, Vasquez, Azorius, Molina, and others, who deem an aggression done to a prince, his government, or his subjects […] the only justifiable warrant for inflicting punishment" (Grotius 2014: 2, 20)

Vitoria refers to Francisco de Vitoria, a 16th Century Spanish friar who argued that the European conquest of the Americas was an unjust war as the Native Americans were in possession of legitimate political authority. Grotius's presupposition that there was no political authority of comparable sophistication to European states at the time is, of course, false, but the other prong of his argument has consequences for our theory of liberal intervention. Grotius, who views proper civil authority as an extension of natural law, argues that those living outside proper civil authority need their natural rights defended by a proper civil authority. Grotius does not assert any particular obligation in cases such as these, but rather that such a defense is just should one wish to undertake it. This created a basis for what was essentially an early theory of humanitarian intervention,

albeit as cover for colonialism (Kochi 2015: 120). Grotius himself had an enthusiasm for overseas possessions and had worked as a deputy for the Dutch East India Company. His theories were exploited by Europeans as justificatory "civilizing missions" for the next 350 years.

The Normative/Analytical Divide in Legitimacy Theories

Grotius and Aquinas's arguments in favor of the sovereign as the only legitimate initiator of force were molded to a time when war between sovereigns was generally accepted. This understanding of war was unchallenged for centuries after the Treaty of Westphalia, and European states frequently fought each other with little consideration given to anything besides their immediate political interests. After decades of uninterrupted conflict during the French Revolutionary and Napoleonic Wars, the first substantive norms against the legitimate prosecution of wars were established by the Congress of Vienna in 1815. For the next century, European states mostly contented themselves with colonial conquests before war broke out once more in 1914. The post-war order established by the Treaty of Versailles and the League of Nations was a second attempt at curtailing conflict, and led to the first instances of wars being considered illegitimate in the eyes of the international community with the Italo-Ethiopian and Sino-Japanese Wars. The inauguration of a substantive and inclusive world order post-Second World War gave rise to modern international relations theory, the subject of the next section of this thesis.

Grotius and Aquinas's theories are normative theories of legitimacy, that is to say, they deal with the legitimacy of an action in a vacuum. Analytical legitimacy studies legitimacy in terms of compliance and submission, that is, why do other actors see an action as legitimate and permit it to happen, why do actors see a particular actor or process as conferring legitimacy to

the point that they will accept its ruling or opinion? Much of the work done studying the legitimate use of force internationally has been segregated along this normative/analytical divide, with analytical studies relying on empirical evidence and actor's decisions and normative studies relying on political theory. In arguing for the legitimacy of the society of liberal states's use of force, it is worth examining both, but eventually the divide will be bridged with a theory focusing on discursive reasoning and actor analysis, thus allowing both hypothetical judgments and an explanation for compliance.

Modern Theories of Analytical Legitimacy

Ian Clark's *Legitimacy in International Society* is a thorough and representative work of analytical legitimacy studies in that it studies the perceived legitimacy of actions and systems through time. Clark, admittedly narrow in focus, begins his argument with a claim there is "broad agreement" that standards of what is considered legitimate or not changes over time (Clark 2007: 13). How exactly these changes are occur and come to be accepted are thus the focus of his work. Clark is building on the traditional theories of legitimacy argued for by Martha Finnemore, who described legitimation struggles as a "marketplace of multilateral rules" wherein the leading international actors clash over who will be able to make the rules for everyone else (Finnemore 2005: 206). Finnemore's analysis relies largely on realist assumptions about power and hegemony that, while superficially plausible, do not explain why actors who need not follow norms for purposes of power accretion ever follow the rule of others. Clark's historical analysis, besides demonstrating the epistemological limitations of a purely analytical approach, give us an idea of what kinds of international structures states are inclined to follow.

Clark traces legitimate systems from right before the Peace of Westphalia but, having described the erosion of sovereign authority and its implications for the legitimate use of force,

this section will chiefly compare his analysis of the system inaugurated by the Treaty of Versailles and the post-1945 system. Clark describes Versailles as falling victim to a number of irreconcilable interests and goals, chiefly those dealing with membership within the new order. Self-determination of peoples, ostensibly the legitimating force behind the new order, was inconsistently or unfairly applied even to "victorious" European states at the same time that it was withheld entirely from the peoples that those states claimed as colonies. Italy, which had been promised Austro-Hungarian territory in the secret Treaty of London, was denied its claims on the basis that it violated ethnic and linguistic self-determination for the newly-independent Balkan states it would be absorbing (Clark 2007: 117-8). Japan, also an allied power, submitted a "Racial Equality Proposal" in keeping with the minority protections that were supposed to be a corollary to the self-determination clause. Japan's proposal was widely mocked and ultimately dismissed, and presaged the total disregard for colonial rights that the treaty ultimately showed. One need hardly read the Treaty of Versailles' content to know how it would turn out, given how negotiations proceeded. Having denied major players (the Soviet Union) in addition to Germany, a right to make decisions in shaping the future of international relations, and finally finished off by Wilson's humiliating defeat in the attempted ratification of US membership, the Versailles order proved illegitimate. The reasons for this and the reasons that war came again are closely intertwined: the treaty failed because it could not find a way to satisfy the competing interests of great powers, leading them to seek extralegal means of settlement. It became seen as illegitimate in part because the absence of those powers seeking extralegal settlements left the League of Nations as a useless tool of international diplomacy that had, even before the Second World War, shown itself incapable of producing satisfying resolutions (Clark 2007: 128-30).

Clark describes the post-1945 settlement as a "bipolar" settlement. This is not just in reference to the Cold War, but in reference to the ways that norms and rules were tightened to include human rights and liberal democracy, while enforcement was relaxed to accommodate the needs of the five victors of the war. The adoption of the Universal Declaration of Human Rights and the establishment of numerous bodies and organizations to promote its values showed that liberal norms and expectations would be passively endorsed, but major questions of international order would be left to the limited membership of the Security Council (Clark 2007: 146-7). The reality of the matter, as had been experienced during the trauma and inaction of the League of Nations during the interwar years, was that anything undertaken without the tacit support of all the great powers would not be able to accomplish anything. Thus, there was no loss to the architects of this new order to make such vetoes legitimate since they already existed in practice. Furthermore, the divorce of embedded liberalism as an aspirational domestic value and international stability externally allowed for the pursuit of both without alienating the large segments of the international community that adhered to non-democratic systems. Although Clark does explain the influence of norms on the proceedings, it is typical of analytical-historical writings that he focuses primarily on their influence on the actors at the time as opposed to making a value judgment about the norms and their effects themselves. Thus, we turn to the study of norms in international legitimacy.

Normative Theories of Legitimacy

Richard Falk, in the introduction to *Legality and Legitimacy,* an edited volume discussing the tension and interplay between the two concepts, describes discourse over legitimate action thusly:

> "it provides a flexible alternative to the sort of binary assessements that have no options other than "legal" or "illegal." This flexibility permits arguments about the comparative

claims of law, morality, and politics to be put forth in any setting of decision or policy formation, and yet sustains the relevance of international even in circumstances where the primary norm has been justifiably set aside." (Falk 2012: 25).

Falk mentions this in reference to the intervention in Kosovo, which was extra-legal but considered "legitimate" by NATO. In holding humanitarian intervention to be legitimate but not strictly legal, Falk seems to be affirming the kind of normative discourse that we have sought to legitimate the actions of the society of liberal states, but there is a crucial piece missing. As pointed out astutely by Corneliu Bjola, Falk fails to make any kind of actor distinction in terms of who possesses legitimacy, only which kinds of actions are considered legitimate (Bjola 2008: 629). Indeed, one of his examples of a possible use of this "legitimate but illegal" intervention is the Cambodian-Vietnamese War that led to the fall of the Khmer Rouge. Although this resulted in the end of the Cambodian genocide, it was undertaken because Pol Pot's government was supported by China and the United States. If Falk holds up the Kosovo protocol, which prohibits "territorial or economic" goals, as a good source of normative legitimacy but then admits that Vietnam's accidental altruism would have been a legitimate justification then the door is open many kinds of abuses without any limitation on the types of actors that conduct them.

Andrew Hurrell, in an attempt to "square the circle," makes a few useful observations about the normative character of legitimacy, as well an admirable but flawed attempt to give normative conceptions analytical weight. He contests the often-presupposed legitimacy of international institutions because their membership, in containing non-democratic states, ultimately poisons the outcome of deliberations within these organizations. Not only do international institutions rarely represent democratic interests, the provenance of the decision-making itself – in coming from an undemocratic regime concerned chiefly with its own power – is tainted to the point that the ultimate decision of the body no longer matters (Hurrell 2005: 19-

20). Hurrell ultimately accepts that democratic institutions provide a unique kind of legitimation on their own, but accepts some caveats in discussing the broader acceptance that such explanations may or may not receive. Hurrell notes that while the just war tradition is an inherited Euro-Christian set of values, its constant reiteration in the face of conflict has given it some legitimacy in the eyes of the international community. While rational persuasion may not be universally achieved, the important point is the shared language with which it is attempted, so as to, at minimum, give all participants in the international system a chance to interpret events for themselves even if they were not included in the initial decision-making process (Hurrell 2005: 24-5). Finally, in looking at analytical legitimacy Hurrell notes that the selectivity and expansionary nature of norm-enforcement has sapped the norms themselves of any legitimacy. Selectively, it appears to many actors on the world stage that the liberal democracies of the world speak of humanitarian intervention often, but only actually commit when there are national interests at play. This, combined with the expansionary nature of such calls – that is, there are more and more situations where such actions are called for over time – seems to indicate that talk of human rights and democracy is merely cover for a new imperialism (Hurrell 2005: 27-8). If any system is to be able to claim legitimacy over the use of force it must be able to apply its principles clearly and consistently. Hurrell gets most of the way to answering the manner in which this should be done simply by process of elimination, but fails to give any positive proscriptions of legitimating norms that can be applied to our liberal society. That said, his article raises several crucial problems ancillary to any formula for determining legitimacy: how can force be consistently enough applied such that it induces compliance from most members of the international community and how can the society of liberal states be sure that its arguments with other states share sufficient common values so as to communicate good will and legitimacy.

Merging Analysis and Norms: Deliberative Legitimacy

Concerned with the segregated nature of legitimacy studies, Corneliu Bjola set out to explicitly bridge the gap and develop a normatively sound method of force legitimation that at the same time could be applied to specific situations to test the legitimacy of actions, as well as giving stakeholders sufficient power to ensure compliance or submission. Bjola's theory is grounded in Jürgen Habermas's discourse theory of morality, a theory that bears certain similarities to Rawls's own theory of public reason. Stripped to its essentials, Habermas argued that the basis for the legitimacy of the state was the continued participation of all in decision-making by reasonable argument (Stanford). It is thus a proceduralist conception that derives its legitimacy from the continued discussion of all relevant stakeholders, and their ability to agree on an outcome absent any coercion. Bjola utilizes Habermas's discourse theory to establish three rules for the legitimate use of force, but holds two concerns, fairness and tractability, in the background for assessing whether or not the theory is analytically realistic. Regarding fairness, Bjola employs H.L.A. Hart's argument for "mutuality of freely consented restrictions," i.e. that the actors taking part in the aforementioned reasonable discussion must not have been coerced into a position to exchange duties and benefits. Without this principle, the outcome of the discussion would be irrelevant because it was had under illegitimate circumstances (Bjola 2008: 635). Second, the circumstances under which the group deliberates must be tractable, or relatively easy to bear. In this regard, Bjola argues for a legitimating structure that draws on both communitarian and cosmopolitan traditions of sovereignty, thus giving states their due as autonomous actors in a communitarian sense but not letting them slip by without upholding their extraterritorial duties in a cosmopolitan sense (Bjola 2008: 637).

Having assessed the two principles by which a structure will achieve compliance, Bjola lays out his three validity claims for the legitimate use of force:

1) "The facts supporting decisions regarding the use of force are truthful and complete, as informed by the best evidence available"

2) "All affected parties must be allowed to participate in the argumentative discourse, and all participants should have equal rights to present an argument to challenge a validity claim"

3) "Participating actors show genuine interest in using argumentative reasoning for reaching an understanding on the decision to use force" (Bjola 2008: 639).

Using these three points Bjola arrives at a legitimating structure that allows groups of affected parties recourse to force, provided they adhere to principles of fairness and tractability in their selection of affected parties and their use of discursive reasoning to arrive at a decision. Bjola then walks us through possible scenarios with both normative and analytical legitimacy. If none of the validity claims are met, the use of force is, normatively, illegitimate. If participants meet the truth claims (1 and 3) then there is sufficient claim to legitimacy in the use of force. This is due to the fact that claim 1 shows that they have all the facts and claim 3 shows they have an interest in deliberative frameworks, even if the failure of 2 means they may not be able to meet it in this specific case, therefore there is sufficient grounds for a legitimate use of force (Bjola 2008: 640-1). Thirdly and finally there is the situation where all three validity claims are met and there is subsequently a strong claim to legitimacy by the actors involved. Analytically speaking it is the speech acts constituent in the decision-making process which induce compliance, as the securing of validity claim 3 insures that the actors involved will have an honest and truthful discussion about the decision they are undertaking.

Deliberative Legitimacy and the society of liberal states

Now armed with a suitable theory of legitimacy we can apply it to the actions of the society of liberal states that were described in the previous chapter. In this section, two specific scenarios will be considered wherein the use of force by the society of liberal states is legitimized through a deliberative process in order to prove the abstract argument before turning to general critiques and objections.

Terrorism

Let us assume that an international terrorist group based in the remote regions of a decent state has come into the possession of a nuclear weapon. The intelligence services of a liberal state discover this, as well as their plan to use the weapon to destroy a large city within the liberal state. The capability and intent are known and understood, but they do not know when the attack will occur or by what means the weapon will be smuggled into the country. The decent state in which the group resides is not complicit in the aims of the organization, but due to domestic political pressures and a hostile neighbor whom the organization also harasses they are unwilling to cooperate with the liberal state in apprehending the members. The liberal state takes this information to the other states in the society of liberal states who, after thorough discussion and examination of the facts, collectively approve of the use of force to prevent the nuclear device from being transported into the country. A small group of soldiers is secretly dispatched to the decent state and apprehends or kills the members of the terrorist organization, thus preventing the nuclear device from threatening the liberal state directly. Was such an action legitimate under the deliberative model just presented?

The first validity claim, that of full and complete truthful information, presents a problem. The extent to which intelligence regarding foreign adversaries can ever be truly judged

as "truthful" or "complete" is debatable, but for the sake of argument we will say that it was

presented in its fullest and most truthful form. The speech acts which constitute the act of

deliberation are more important for the legitimating process than the information itself, so the

crucial question here is whether or not the other liberal states were provided with the same

information obtained by the state directly under threat. Here again, we can assume that this was

the case, for there is little reason for the threatened state to conceal anything, as the full picture is

the most likely to yield approval for force that could potentially save hundreds of thousands of

their citizens. This claim is met. The second validity claim, that all affected parties be allowed to

discuss the use of force, has also been met. The decent state may have objected to the soldiers

being dispatched to its territory, but the decent state is not the only affected party. Recall from

Chapter 2 that the reason terrorism threatens the liberal project is not merely due to lives or

property which is destroyed, it is the political consequences of that destruction. In theory, the

liberal state could have waited until the weapon was actually on their soil to apprehend members

of the group and neutralize the threat. However, this exponentially increases the risk to their

citizens and also to the political system, which could not have withstood such an obvious

undermining of the state's responsibility to its citizens. In the face of this, the entire liberal

society is made up of affected parties because the destruction done to their political structures

and the eventual goals of the society would be irreparable were the use of force not undertaken.

The third validity claim, that all participating actors show genuine interest in the deliberations, is

harder to prove, but can be inferred as being met given the character of liberal democracies and

the society of liberal states. Both Habermas, from whose work the legitimation conditions are

drawn, and Rawls, from whose work the structure of the society of liberal states is drawn, place a

premium on reasoned discussion for the creation of just governments. If such discussions are

essential for domestic justice then it stands to reason that the publics of liberal democracies would demand a similarly reasoned process when dealing with other states, particularly when the discussion involves potentially committing their armed forces to an action. The character of these states is what makes the legitimating process uniquely powerful in the context of the society of liberal states and we can consider the third validity claim met, thus giving a strong claim of legitimacy to the entire action.

Humanitarian Intervention

An attempt is made on the life of a decent state's president by an assassin who is identified as a member of a repressed ethnic minority. Identifying the group generally as responsible, the state launches a crackdown in their part of the country involving the use of the armed forces to move people into concentration camps for "protective custody." Soon afterwards an earthquake occurs in that region. The government, after feebly attempting to repair damaged infrastructure, expels foreign journalists and aid organizations and abandons the region to the whim of the armed forces. What information does escape is rife with mass atrocity crimes as the armed forces, now abetted by citizen militias, accelerate the process of "protective custody" and begin wholesale killing and destruction of property. Pleas for assistance are considered by the states of the society of liberal states, who have been calling for an end to repression and the introduction of more just and representative government in the state for years. After deliberation, a multinational force is dispatched to the state in question. After a short period of engagement with the liberal task forces the state's armed force's largely retreat from the minority area of the country. The region, now *de-facto* independent under the auspices of liberal militaries, is opened to international aid organizations and foreign infrastructure investment. Were the actions of the liberal states justified?

As with the terrorism case, the question of truthful and complete information is difficult to address. The existence of a humanitarian emergency seems highly likely, but the obfuscation and denials of the decent state call the nature of the crisis into question. The issue of protective custody seems to indicate malicious intent, but the death toll could be more a result of the earthquake then the armed forces. Finally, however, the expulsion of foreign journalists and aid organizations is telling – given the information available it seems that the decent state harbors malicious intent towards the ethnic minority. Again, as with the terrorism case, the salient question for the deliberative process is more equal information than truthful. The second condition of affected parties is similar. The decent state has nominal jurisdiction within its borders, but at the point when it is deliberately perpetrating atrocities its sovereignty, predicated on securing goods for all of its citizens, is no longer inviolate. In order to secure those goods, it requires outside intervention, and the liberal states are uniquely affected by this problem due to their role in promoting liberalism around the world. Having previously called for more just government and an end to ethnic discrimination, the society of liberal states – and liberalism itself – risks losing legitimacy in the eyes of the ethnic minority and liberal opposition within the decent state. Thus, for its political goals the society of liberal states can be considered an affected party when coming to the table to deliberate the use of force. The second condition is met. The third condition is met for the same reasons as the terrorism case. The society of liberal states has a strong claim to legitimacy in this use of force.

Legitimacy and the Character of States

Having considered specific instances, I will now turn to the behavior of the society of liberal states generally. It would be a fair criticism to say that the two examples above were cherry-picked for their obviousness and the by-the-book attitude of the states involved. There is

ample reason to believe, however, that the character of liberal states operating together in a society of the kind presumed by Rawls or Kant will cause them to treat Bjola's deliberative legitimacy theory as a guide, rather than a test. That is, the society of liberal states will limit itself to uses of force that can be legitimately undertaken using the deliberative model. Furthermore, I will argue that the rigorous discourse required in order to legitimately use force excludes non-liberal states from doing so.

Describing the character of liberal states in *The Law of Peoples* Rawls comments that, "the necessary (political) virtues are those of political cooperation, such as a sense of fairness and tolerance and a willingness to meet others half-way" (Rawls 2001: 15). That is, in order for a liberal state to function its citizens must possess virtues of political cooperation. Any state with a sustainable liberal structure can thus be assumed to possess those virtues in a majority of its populace, or else the liberal institutions in the state would not function. Rawls's description of the origins of the democratic peace and, by extension, the society of liberal states itself shed further light on these virtues and their presence in the inter-state discourse of liberal democracies. The first reason for democratic peace is that liberal democracies are "satisfied" societies when it comes to the basic goods and their distribution amongst their citizens. The second reason is the ideal of public reason and its place in liberal societies. Because liberal democracies are founded on the idea of rigorous argumentation and public justification, as well as transparency and accountability, their first impulse when dealing with other states will be one of dialogue. The reason that liberal states come together in the society of liberal states in the first place is because they have no desire for aggression, instead preferring reasoned dialogue with one another (Rawls 2001: 49-50). This desire for reasoned dialogue is ingrained in their institutions and thus the behavior of the citizens conducting state business abroad and with other

states. This automatically satisfies the third validity condition of deliberative legitimacy because liberal democratic states are constitutionally and characteristically predisposed to favor the kind of argumentation required. The desire to fully execute the ideals of public reason satisfy the first legitimacy condition because "the public reason of free and equal people [is] debating their mutual relations as peoples" (Rawls 2001: 55). Since public reason precludes any comprehensive doctrine of truth predicated on subjective understandings offered by religion or ideology, a reasoned debate requires full objective knowledge of a given situation in order to have a reasoned argument regarding it. This establishes the interest in gaining full knowledge of a case regarding the use of force as an interest of liberal states. Finally, the political threats posed by the two cases described in Chapter 2 establishes all members of the society of liberal states as affected parties for the purposes of the second validity condition. Since members of the society are all working toward the gradual expansion of liberal governance by good example, their forceful actions in defense of liberal democracy in any single state are a defense of their collective sovereignty over their political systems.

The reasons above lay out the argument for deliberative legitimacy as more than a mere test for the legitimate use of force, but as guiding principles to which the society of liberal states would naturally and willingly adhere should it undertake forceful action in any circumstance. Furthermore, even accepting that liberal states occasionally (or even frequently) fail to live up to Rawls's "realistic utopia" of liberal governance by public reason, it is in the self-interest of liberal states to defend the actions of the society of liberal states as legitimate. If one accepts, as Rawls and this thesis do, that the implicit goal or endpoint of the society of liberal states is the spread of liberal governance by good example, deviation from the otherwise pacifistic nature of the society must be defended through a rigorous legitimation process. Without such a process,

the image of a liberal society as an aspirational organization would be shattered, and be just as self-defeating to the example of liberal governance as allowing humanitarian disasters or catastrophic acts of terror to occur.

In contrast to the ability and desire of liberal states to follow the rules for rational uses of force, decent (and certainly burdened and outlaw states) are unable to for two reasons. First, they are characteristically unable to because their governmental structures do not conform to norms of liberal governance that allow for "legitimate" decisions to be made, thus the provenance of their decisions is tainted. Secondly, the liberal states are considered "affected parties" for the purposes of the second validity claim because of the scale of the political threat that inaction presents. For a similarly threatened decent, burdened, or outlaw state the stakes are much lower and the security dilemmas presented by liberal-democratic governance do not exist.

Recall Andrew Hurrell's description of the hierarchical nature of international decision-making: because the state's actions are themselves representative of the will of its governing bodies, those bodies must be representative in order for the decision to be fully democratic. The last two validity claims for a legitimate use of force deal explicitly with access to and an interest in "argumentative reasoning." This is a crucial point in Bjola's theory:

> "Unwillingness to include other relevant actors in the debate and refusal to engage in argumentative reasoning only serve to discredit claims made on that basis, because it clearly demonstrates the intent to pursue an ideological agenda, which is shaped by subjective considerations and hence, largely divorced from an intersubjectively-defined social reality" (Bjola 2008: 640).

Discussing the actions of the society of liberal states we have almost exclusively deployed Bjola's legitimacy tests internationally, so the discourse and argumentation is between states and their representatives. However, it is clear from the argument presented above that this can also be used domestically, and thus to trace from their origin the legitimacy of decisions to use force. To

get a feel for this process let us reintroduce Rawls's prototypical decent state, Kazanistan. In Kazanistan all are basically equal, in the sense that there is not state-sponsored discrimination against anyone in particular. That said, Islam clearly informs the discussions had within the state and only Muslims are allowed to seek political office. In the *Idea of Public Reason*, Rawls contends that democratic governance and the use of public reason arises from "a relation of citizens within the basic structure of society, a structure we enter only by birth and exit only by death; and second, it is a relation of free and equal citizens who exercise ultimate political power as a collective body" (Rawls 2001: 136). While Kazanistan might arrive at decisions through free and equal citizens exercising their collective political power, those citizens arrive at that power by virtue of their belief in Islam, not by virtue of birth into a system of free and equal people. Furthermore, presuming, as Rawls does, that Kazanistan has people of other religions within its borders who are considered "citizens" in the sense of their passports, if not their rights, then political decisions clearly run afoul of public reason. The decision-making classes of Kazanistan are comprised entirely of Muslims, and Islam directly informs the goals of the state. Since it informs the goals of the state and all the decision-makers share in this background, discourse around those decisions is necessarily influenced by a subjective worldview that cannot be interpreted without accepting that same set of premises.

Even if there were no citizens of other faiths in Kazanistan and every single citizen did understand method by which the decision to use force was made the decision would still need to be explained to the other affected parties. Were Kazanistan attacked directly and there were truly no other actors involved then such a decision would be valid. This is one of the reasons that deliberative legitimacy does not deprive states of their right to self-defense: when one is being attacked there is no dispute over who the affected parties conducting the discussion are. When

conducting a humanitarian intervention this is not possible because there are other parties involved; if the humanitarian imperative is justified using Islamic law then it is not readily understandable to the other affected parties, be they other states in the region or the society of liberal states. It is not a public reason that can be argued regardless of social context and it is thus inadmissible to the legitimacy discussion, precluding Kazanistan and similarly hierarchical decent states from undertaking the use of force outside of self-defense.

What if the leaders of Kazanistan did have a public reason? What if they were so interested in using force that they restricted themselves to public reasons when justifying their actions? This would still be invalid and illegitimate, because they still exclude non-Muslims from the decision-making process. Even if the argument is believable for the rest of their citizens and the other affected states, they did not get a chance to challenge the validity of the action, thus failing the second validity claim. Bjola himself admits that meeting the first and third validity claims is sufficient to give a use of force legitimacy, but the third claim – the genuine interest in reasoned argumentation – cannot be met by a state that consciously shuts people out of the argument and decision. A state that limits access to the halls of power based on belief clearly demonstrates a lack of interest in publicly reasoned argumentation and any behavior to the contrary internationally (such as using a publicly understood argument to achieve strategic or political goals) is just cover for their true intentions. Constitutionally, decent and other non-liberal states cannot legitimately use force outside of self-defense because of their disinterest in argumentative reasoning and their exclusionary political practices.

Superficially such an exclusion seems ridiculous. If the leaders of Kazanistan were going to intervene in, say, a humanitarian emergency for the very same reasons that liberal states would have than what is the issue? The issue is twofold and has to do with both the importance of

procedural legitimacy and the prior requirement of stability before a just system can flourish. Regarding procedural legitimacy, strict limitations are required such that the language used to justify the use of force is not misappropriated by decent or other actors that merely claim to be acting under a guise of defense or humanitarianism. Humanitarianism has often been used as cover for aggressive action against other states, indeed it was Hitler's use of such pretenses that led to the exclusion of a right to humanitarian intervention from the post-WW2 order (Goodman 2006: 108-10). If liberal states are to rely on speech acts for their legitimation procedures, then the procedure through which such speech acts are transformed into actions must be inviolate. The ability of Kazanistan to act unilaterally also has bearing on international stability, which Rawls considers key to the development of a just society. The hierarchy of needs will always dictate that food, shelter, and safety come before civil and political rights. Thus, it is necessary for the global situation to be as a stable as possible if liberal governance is to spread (Beitz 2000: 688-9). Were states allowed to unilaterally decide when to intervene the role of stability in dictating how and why the intervention is undertaken would fall by the wayside. Humanitarian emergencies need to be considered in a deliberative manner if all the relevant factors are to be weighed; Kazanistan, in lacking the faculties to fully participate in the deliberative process cannot be considered a legitimate actor even for the right reasons.

That said, this does not preclude the acceptance of or participation in action altogether. Earlier the Vietnamese intervention in Cambodia was described as "legitimate but illegal" and, like vigilantism, we (or the liberal states) may say that the right outcome was achieved but nevertheless condemn the action itself. Furthermore, like with vigilantism, we can recognize the necessity of its prohibition while simultaneously exonerating those who commit it when all the facts are presented before us.

The second reason for non-liberal states' illegitimacy is their questionable status as affected parties. The society of liberal states's position as such is derived from the threat that humanitarian emergencies and terrorism pose to the political project of expanding liberal governance. Decent states have no similar position because they are not a part of that project and the rights afforded to their citizens are divorced from their political identity. Because they exist to give voice to ethnic or otherwise finite groups, the curbing of civil liberties to fight terrorism, for instance, does not pose an existential threat to the political life of the state. This distinction is important when considering the proportionality of a response – the existential threat to the liberal project posed by a terrorist group with a nuclear weapon requires a swift and forceful response, even if it violates another state's sovereignty in the process. By contrast the same threat being made to a decent state poses a direct threat to the lives of its citizens but not to the state itself. The principle of self-defense might mean limited forceful action is justified if the threat is truly dire, but not to the degree which it is called for on behalf of liberal states.

Deliberative Legitimacy and Compliance

The discussions of legitimacy in this thesis are primarily concerned with the normative legitimacy of actions, but it is worth acknowledging, as Rawls seeks to with his "realistic utopia," that a theory which is totally unachievable is not worth much. In the world today states that could be considered "liberal" are dominant economically, militarily, and culturally to an extent that induces compliance on its own. However, considering the perceived legitimacy of Bjola's deliberative processes in such a world would be missing the point. Not only have we discussed the hollowness of such "great-power legitimacy" as mere coercion, it defeats the purpose of a procedural theory to say that only from a position of strength will the procedure be taken seriously. Thus, structural reasons for compliance on the part of non-liberal states must be

provided. Fortunately, there is ample reason to believe that a society of liberal states following a deliberative process of force legitimation would induce broad compliance in the international community. The argument for such compliance consists of two intertwined points: first, the deliberative process provides checks against the selfish and politically motivated concerns that normally sap legitimacy. Second, the consistent repetition of processes over time leads to an acceptance of those processes.

Consider first the reasons that the use of force by liberal states is often viewed as illegitimate. Frequently it is due to a fundamental mistrust of these states and their motives. While there are a few outlaw states whose position is either to obfuscate or deny humanitarian disasters, or to insist that mass-atrocity crimes are within the legitimate purview of a sovereign state, the majority of states are accepting of human rights standards when sufficiently convinced that it is not cover for imperialism. For instance, talk of human rights and democratic spread was roundly dismissed in the lead up to the 2003 invasion of Iraq because many were convinced, as Nelson Mandela stated at the time, that "All [President Bush] wants is Iraqi oil" (*The Guardian* 2003). Mandela had previously been supportive of Coalition forces in Afghanistan, but the fact that the US acted unilaterally and without sufficient evidence in Iraq led to not just to that conflict being perceived as illegitimate, but also the tainting of the language used to justify it.

Conditions of inclusion within the deliberative process are key to understanding why a society of liberal states would be more effective at curtailing overreaches like Iraq. In a system that emphasizes universal participation such as the UN General Assembly or a mostly liberal but *de jure* apolitical body like NATO the objections of other states do not count for much. Failure to secure UN General Assembly or Security Council approval for the Iraq War was written off as being due to anti-Americanism in the GA and the vetoes of Russia and China in the Security

Council. Thus, the illegality of the war had been due to the machinations of illiberal states and did not actually prove anything about the character of the war. Opposition from NATO allies like France and Germany was dismissed as irrelevant, as the Iraq conflict was outside of NATO's purview of collective North-Atlantic defense. Were the case for war being made to a society of liberal states whose explicit goal the protection and encouragement of liberal government such opposition could not be swept under the rug as easily. Opposition based on the eroding of liberal legitimacy would have to be taken seriously as to not do so would be to contradict the goals of the very organization undertaking deliberations. Likewise, the failure to authorize force could not be attributed to nefarious despotisms and could thus not be written off as mere ideological disagreement. The character of deliberations on force changes substantially within an explicitly political organization of the kind envisioned by Rawls, and this leads to much more serious consideration of opposition by states that have aggressive impulses such as those that drove the US into Iraq.

The result of these checks on individual state behavior is that non-liberal states are much more likely to take the actions of such a body seriously. Any use of force approved by the liberal states would have to involved seeing all the facts of the case and rigorously debating the correct response before finally settling on the use of force. Knowing that such a discussion had been had it would be harder to oppose liberal goals as being cover for expansionism, and any attempt to do so would likely come from states who felt themselves ideologically incompatible with liberalism, and thus incapable of being persuaded by liberal public reasons in any case.

This is not to say that every state would immediately comply with liberal states' use of force merely because they had debated the issue beforehand. Rather, it is the consistent results that the deliberative method is able to achieve over time that induce compliance among non-

liberal states. Hurrell, in describing language used to justify the use of force, appeals to Michael Walzer's description of the "moral reality" of war. Because those caught up in conflict are not just victims but active participants there has been much time and effort devoted to uncovering moral arguments regarding it. Over time the reiteration of a certain subset of these arguments has led to an accepted language with which wars are justified (Walzer 2015: 15). The problem with the existing "moral reality" is that it can be twisted to suit the needs of nearly anyone, descended as it is from schools of thought (like Grotius and Aquinas) that relied almost entirely on intent for its justification. Deliberative legitimacy provides a moral reality where not just language but an actual process can be used to test for legitimacy. This solves two issues: first, partisans of absolute sovereignty are no longer able to allege ill-intent on the part of the liberal states without impugning the democratic process more generally, a process which is already a well-entrenched norm in international society. Second, the consistency with which force is applied will naturally generate legitimacy the same way that Weber described it as being generated by tradition. That is, states get used to the language and norms used to justify actions until those actions become the status quo. At this point, states will tend to respect and comply with the actions of liberal states more often than not.

Chapter 4
Objections and Responses

The previous chapter provided an argument as to how a society of liberal-democratic states can, through discourse and collective decision making, address threats to the liberal project with force. Furthermore, it argued that non-liberal states were, due to their internal political processes, unable to legitimately use force in a similar manner and were limited to narrowly construed self-defense. Objections to the exclusionary nature of the liberal society and its uses of legitimate force were dealt with in the discussion of Kazanistan in the last Chapter, but there are more reasons to take issue with a society of liberal states using force abroad than just the exclusion of decent states. This chapter will address three primary objections to the liberal society's forceful reactions, dealing with the goals and construction of the liberal society itself, as well as problems more narrowly associated with its use of force. First, this chapter will address the historic use of democratic ideals as a mask for imperialism, and the possibility that the liberal project of expanding liberal governance is intrinsically imperialist and coercive. Second, issues with democratic militarism and the tendency of liberal societies who frequently use force abroad to become more autocratic will be investigated. Third, the recourse to violence itself and whether or not this signals an illegitimacy or a loss of authority on the part of liberal democracies and liberal ideals generally will be interrogated.

Democracy as Imperialism

Liberal Democracy and Colonialism

Chapter 3 described briefly how Hugo Grotius's theory of sovereign authority based on a political organization aimed at representing the will of the people was used to further colonial

expansion. Indigenous political structures were considered illegitimate and thus not possessed of the sovereign authority which European states could claim. Thus, under Grotius's view, the expansion of European authority to areas where such structures predominated was actually bringing areas of anarchy into line with the principles of natural law and governance supposedly espoused by European states. In reality the indigenous peoples of the Americas, Africa, and Asia had developed sophisticated governments whose only real fault was that they could not match European technology. That outright conquest was covered up by an expansion of "correct" political authority was bad enough, but democracy and liberal ideals specifically have been used to veil colonialist ventures as well.

Liberal democracy's history of providing a smokescreen for colonialism cannot be ignored, particularly when the society of liberal states attempts to justify its uses of force to the international community. That said, the danger of such language being used to justify outright plunder or settler colonialism has probably passed, as wars of conquest or exploitation are now roundly condemned by the international community. Updated and nuanced forms of such behavior are not out of the question, however. Given recent history, it is easy to conceive of a liberal intervention ostensibly for humanitarian purposes that turns into an exploitative venture. The deliberative legitimation process described in Chapter 3 ensures the initial use of force is legitimate, but recent history has shown that even if the intention is right the follow-through can still lead to abuses and exploitation. Consider, for instance, a humanitarian intervention made to stop a genocide. The use of force by the society of liberal states meets all three conditions of a legitimate action and is widely perceived as such by the international community. As has been discussed, however, it is usually not sufficient for liberal forces to merely stop the genocide. States that find themselves in such dire straits normally require an extensive process of healing

and rebuilding, and it is conceivable that forces from liberal states would need to remain for some time as this process gets off the ground. Apart from the optical problems of what is essentially an occupation and the problems accompanying such a presence there are opportunities for exploitative behavior even as liberal states genuinely try and aid the state in question. Given recent history, particularly the experience of the United States in Iraq, it is easy to see that preferential treatment could be given to contractors from liberal states during the reconstruction process. The profit that companies could reap from an otherwise humanitarian project may cast such an intervention, and the human rights violations upon which its legitimacy is built, as a neocolonial attack. Exploitation of this nature does not need to be as obvious as resource extraction or workforce mobilization, even the legitimate work of consultants on rebuilding key infrastructure or governmental structures could be as exploitative if such actions lead to great profit on the part of the liberal states.

Specifically, on the example of Iraq and the American private sector's resulting profit, it can be fairly argued that, when the intervention starts from an unjust and illegitimate premise, it is far more likely to be exploited for private gain. Chapter 3 addressed why such oversteps are unlikely to occur when subjected to a rigorous deliberative legitimating process, and thus we can assume that interventions would occur only in good faith. That said, projects started in good faith can still become corrupted once undertaken, but there are structural reasons why a legitimate intervention by the society of liberal states would not be subject to such pressures.

First, in keeping with the third legitimacy condition (genuine interest in the deliberation) it must be assumed that any legitimate action was undertaken because the states in the liberal society felt that it met the other conditions. There is little reason to think that states putting lives on the line to stop a humanitarian disaster would want to get something out of it other than an

end to the crimes and a reconstituted state capable of providing for its people. If they did, they would not have had a legitimate interest in the deliberative process because the deliberative process is concerned with whether or not force is required to stop the humanitarian emergency. Even if one assumes for the sake of argument that there are countries within the society of liberal states willing to use reconstruction efforts to enrich their citizens there is no reason to think that other states would allow it. If this one state is the only one that does not concern itself with the humanitarian project, the other states will reject their attempts to profit from the reconstruction and limit involvement to non-profits or government entities. This is not to say that national interests do not exist at all but rather that liberal states would hopefully see the danger in allowing profit-seeking during a humanitarian mission. Even if this remains strictly secondary in priority there is still the chance that humanitarianism in other more borderline cases could just be a guise under which profit is extracted. However we can in theory assume that all the participating states are profit motivated and although I feel this is a bad faith objection because it contradicts the premise of liberal foreign policy being the spread liberal values and not profit, the assumption that liberal democracies are nonetheless competitive allows us to subject their profit-seeking to the logic of competition. Because the game of extracting profit is zero-sum (i.e. if one state gets a mining concession or employs a certain amount of people others will not) with multiple competitors, they will restrict the participation of any profit-seeking entities, thus limiting it to non-profit or government entities in order to keep anyone from benefitting, leaving us the same scenario as with pure intentions. If they truly cared about profit more than anything, there would be cooperative exploitation, but if this is the case than a key premise of the society of liberal states is false, and thus their colonialism is not a problem for the liberal project. Rawls himself notes in the *Law of Peoples* that "[an] assumption here is that the larger nations with the

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wealthier economies will not attempt to monopolize the market, or to conspire to form a cartel, or to act as an oligopoly" (Rawls 2001: 43). If the liberal states are willing to impose artificial market controls after an intervention then they would presumably be willing to do so generally speaking. Therein lies the ultimate response to this objection, which is that liberal states are creatures of the market and competition, and would not take steps to limit either of those things abroad unless it was in the interest of further liberal developments.

Finally, if we assume that liberal governments generally act in good faith but private entities may not, we can turn to Rawls's own belief in the strict control of money in politics as a prerequisite for true liberal governance. This limits the ability of private entities to bend government to their will and keeps the exploitation from happening. If the people of a liberal state themselves are intent on exploitation than the state is no longer liberal, as it harbors aggressive designs towards other states.

Liberal Democracy as an Imperialist Project

Outright exploitation is not the only problem for liberal states' use of force. It can be argued that the extension of liberal values is really an imposition of liberal values. This applies more obviously to instances of post-conflict reconstruction wherein liberal structures are implemented, but can be taken as a critique of the liberal project generally. While the goal of liberal foreign policy is to promote liberal governance, it must also respect reasonable pluralism by tolerating most non-liberal states. Non-liberal states are allowed some latitude for self-determination, and as long as they respect the basic principles human rights of their citizens they should be left alone by the liberal states. The project of expanding liberal views can be read as imperialist if one thinks that the promotion of such views infringes on the self-determination of decent states that have elected to, for instance, privilege one religion or ideology over the

political rights of their citizens. In the real world, this argument is often deployed against interactions between liberal and non-liberal states where liberal states exact some kind of political price for the interaction. For instance, if a liberal state conditions aid or other economic activity on political reform.

Unfortunately, such agreements are not only common, they are counterproductive to the liberal project, as they are often weaponized by politicians seeking to undermine institutions, like the World Bank or International Monetary Fund, that seek to promote liberal governance. Ideally a society of liberal states organized along Rawlsian lines would reject such behavior as antithetical to the goal of spreading liberal governance by example. Furthermore, as liberal states are premised on a mutual agreement between citizens, a liberal government obtained through imposition would not be a true liberal state, and the avenues for governmental change afforded by liberalism mean that the citizens of such a state would quickly make it non-liberal again.

More of an issue for fears of liberal imperialism is the role of liberal states in reconstructing states that have required intervention. If one accepts that all people have a right to self-determination, even if that means adopting a non-liberal government, then liberal states playing an active role in restructuring states that have suffered from humanitarian disasters raises the prospect of potentially contradicting that self-determination. The character and structure of liberal states again provides a check against this possibility, however. First, it is crucial to recognize the situation of the states demanding a forceful response. These are states which deliberately deprive their own citizens of fundamental rights, thus creating a humanitarian emergency demanding an intervention by the society of liberal states. States responsible for such an emergency cannot be considered "well-ordered" in the Rawlsian sense of respecting human rights. Thus, when dealing with the outlaw states that perpetrate atrocities the goal of liberal

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states must be to reestablish a well-ordered society. In Rawls's own discussion of humanitarian intervention, he makes it clear that, "the enemy's people are not to be held as slaves or serfs after surrender, or denied in due time their full liberties" (Rawls 2001: 98). When restored to their full liberties the people of the state are entitled to reenter the international community as a non-liberal but decent state if that is what they want. While liberal states are the only ones entitled to initiate humanitarian intervention because of their ability to legitimize such action through deliberation, they are not entitled to recreate the state in question in their image against the will of its citizens. Likewise, decent states themselves are precluded from such intervention because their preference for a specific notion of the good life would lead them to construct a similar government in the state where they intervened. Liberal states, at least in ideal theory, are committed to the principles of free and open debate and would construct liberal processes for the determination of a well-ordered government but not insist on a liberal outcome to those processes.

The Use of Force and Liberalism at Home

Debates about the character of liberal states operating abroad often center on their actions overseas in a vacuum: does liberalism have an inherent disposition towards imperialism? Does the promotion of liberal values abroad violate principles of liberal tolerance? Less often examined is the corrosive influence that actions abroad often have on liberal values domestically. Turning to non-ideal theory and the possibility of public corruption and crime, this section will address the consequences of conflict abroad for liberal states.

War and Public Corruption

Many theories of international relations take Thucydides's *History of the Peloponnesian War* as their starting point. Exiled from Athens for a failed military action, it has been argued that Thucydides (like Plato after the trial of Socrates) was molded into an enemy of democracy by its treatment of him. The *History of the Peloponnesian War* is not unbiased history, but its true lessons lie not in the dangers of democracy itself, but rather in the dangers that unwise military adventurism can have for democracy. Alan Gilbert, a scholar of democratic theory, argues that the trajectory of Athens from hubris to empire to overextension to eventual defeat closely mirrors that of the United States from the beginning of the Cold War through Vietnam. The Athenian Empire had its beginnings in the defeat of the Persians at the Battle of Salamis, where the Persian navy was annihilated by that of Athens, thus preventing an invasion of Greece. The Athenians, who had been convinced to build ships for defense, were now left with the most powerful navy in the region. Rather than disband the fleet or the defensive league into which many Aegean cities had entered, the Athenians used their ships to extract tribute from their allies in order to pay upkeep on the fleet. Pericles's funeral oration for fallen Athenians in the first years of the war with Sparta squarely places "Athenian Greatness" at the feet of their defeat of the Persians (Gilbert 1999: 155-6). That is to say, because Athens had defended Greece they were justified in continuing their exploitation of their former allies, even though by this point it had led to war with Sparta. Because Sparta was a land power and Athens a sea power there were few decisive engagements in the first fifteen of what would become a twenty-seven-year affair. Facing problems domestically after so many years of frustration a militarist faction came to power in the Athenian assembly and devised an expedition against democratic (but Spartan-allied) Syracuse using nearly the entire Athenian military. The Syracuse expedition was a

disaster resulting in the total destruction of the Athenian fleet and oligarchic factions took hold shortly thereafter, leading to the eventual downfall of Athenian democracy after the final defeat.

Gilbert does not attempt to analogize too closely between specific events and persons, but even without outside analysis it is easy to see reflections of the American victory in the Second World War in the Athenian defeat of the Persians. Having just vanquished a major threat and possessed of the military the United States assumed global responsibility. Although nominally adhering to a strategy of containment it became easy for politicians to exploit fear of communism. Recognizing this, those in power refused to back down from conflicts abroad even when there was little strategic interest in pursuing them for fear of repercussions back home. Eventually, made skittish by the "loss" of China and stalemate in Korea, the US began a decades-long involvement in Vietnam even though many professionals in both the military and intelligence communities warned against it. Eventually, as with the degradation of Athenian democracy, lies were told and domestic critics were silenced that seriously undermined domestic liberalism and faith in institutions.

War, Corruption, and Political Incentives

Liberal states are based political competition in the sense that politicians that produce failed policies will be voted out of office and those that produce success will be reelected. Realistically, most people will be set on one particular set of reasonable policies, but there are sufficient people who look for material benefit or the success of certain policies that if a government is faltering in delivering goods to its citizens they will be voted out of office. This is why Rawls calls for strict campaign finance limitations, for instance, because to have none would allow interest groups to unduly influence reasonable citizens who would otherwise rationally evaluate the success of policies. While in office politicians are supposed to be working

towards the goal of improving their constituent's lives, but in order for the system to work they must have at least a second-order concern for getting reelected. If they had no interest in this, they would not have any interest in representing the views of their constituents or working for them. The problematic side of this, is that politicians have frequently seen military action as a way of boosting their popularity. As was alluded to in the discussion of Thucydides and Vietnam, this is especially an issue when there is a single opponent against whom the parties can play each other's responses. Applying it to the examples of terrorism and humanitarian intervention, it is easy to see how the party in power could be said to be "soft" on a single terrorist organization or country, or how the fear of being perceived in such a way would drive leaders to make rash decisions regarding the use of force. This is true of terrorism especially. In Chapter 2 the ongoing US counterterrorist assassination campaign was presented as a cautionary tale for liberal states, and one that deliberative legitimacy would prevent due to the necessities of collective action. Applying the political incentives above it is easy to see how decision makers in a country that has already committed itself to a degree of offensive action against terrorist organizations can slip into a prolonged and counterproductive campaign.

While deliberative legitimacy helps in preventing such a campaign from occurring, it does not have much bearing on the political discourse at home that often falls victim to the same incentive structure that ends up perpetuating violence. Even before the United States was involved directly in Vietnam the same political pressures that eventually drove that decision were animating Senator Joseph McCarthy's demagogy, which in turn were driven by paranoid delusions of communist infiltration. That anti-communism remained a political litmus test throughout the Cold War even during periods of relative calm show that even a group of liberal states restrained by deliberative processes could fall victim to illiberal tendencies domestically

even if their foreign policy is restrained. Protracted conflict with any group of people tends to promote fear of that group. If conflict is strictly limited to preventing horrific atrocities and massive losses of life domestically or in allied states this is probably even more likely to occur. What is to stop even reasonable citizens from feeling fear or ill will towards another state that is committing genocide, particular one of a magnitude sufficient to require military intervention to stop it? Policy in a liberal state may require an overlapping consensus, but fear is not unique to any particular comprehensive conception of the good, and it could be said that reasonable citizens may submit to policies based on concerns for their personal safety, even if they are abstracted.

Of further concern to liberal societies who engage is prolonged conflict (or at least expect to) is the prominence that the military assumes in decision-making when this is the case. One of Kant's arguments for the abolition of standing armies was that their very existence tends to prompt nations to use them, as using them and eliminating threats is cheaper than the infinite escalation of peace-time defense (Kant). This is even more the case when a state is actively engaged in armed conflict, for any expenditure can be justified as necessary to ending the war expeditiously. Thus, the whims of the legislature, nominally free to address what issues it chooses, can only be addressed after the military is sated. This is nothing to say of the corresponding power of arms manufacturers, whose symbiotic relationship with the military incentivizes frivolous purchases and reckless deployments as long as the government of a particular state can be influenced.

All of these objections point to the necessity of strong liberal controls and norms over the employment of force. While some of these impulses can be at least mitigated by the collective decision-making process, the feelings of paranoia and xenophobia have nothing to do with the

measured decisions of the society of liberal states as a whole. Thus, the burden is laid heavily

upon the reasonable citizens of the liberal states themselves to avoid such occurrences. Although

best intentions often mean little against the weight of money and personal interest it seems that

the political goals of the society of liberal states are in many ways self-reinforcing. It is

unreasonable to suggest that any one state in a group that feels sufficiently dedicated to the ideals

of liberal governance to defend them by force would succumb to the petty machinations of arms

manufacturers or bureaucrats. There are examples of such entanglements, but if the reason that

democratic peace works is that the citizenry is generally disposed to peace then it is unlikely that

such a group would allow themselves to be manipulated by the interests of those who break the

peace, even if it is for a good reason.

Violence and Illegitimacy

States are predicated on the manipulation and justification of violence. Their monopoly

over the legitimate use thereof is what gives them their essential character, and while violence is

often exercised only implicitly the ability of the state to "get away with" violence because it is

presupposed to have been justified is a great power. Liberal democracies, relying as they do on

the consent of the governed to provide them with legitimacy, would then be supposed to be less

violent with their own citizens. At the heart of this thesis is the contention that liberal

democracies would prove to be less violent with the citizens of other states. Indeed, Rawls and

Kant were so committed to this idea that their conceptions of liberal alliance precluded such

states from the use of force; an argument that this thesis has argued against. It has sought to

prove that the features of liberal democracy from which legitimacy is derived – open discourse,

transparency, and inclusion – can be used internationally in order to legitimize force abroad in order to preserve their own politics of discourse and consensus.

The argument that violence and force is actually a sign of impotence and illegitimacy poses an acute problem for the arguments laid out in this thesis. Hannah Arendt, who first formulated this theory of violence in 1969 in *Reflections on Violence*, was writing primarily against new-left revolutionaries, but her observations are nonetheless important when considering that, at base, the argument put forth in this thesis is that liberal states are sometimes required to be violent as a matter of survival. Considering power the opposite of violence, Arendt defines two types of power. The first is the simple understanding of power: the power to dominate and to command obedience. The second is more complex, involving obedience but not necessarily command: the power that laws, derived by common consent of the people, have over those people. The people are still expected to obey the laws, but they are not being "forced" to do anything because they lack a specific command to do so and because they are the ones that formulated the laws which they obey in the first place. Power "always stands in numbers" (Arendt 1969) because it relies on common acceptance. Arendt concedes that power, given sufficient numbers, has the potential for just as much abuse as violence does, and thus the corollary of power is legitimacy. Legitimacy is the means by which the power was achieved, and Arendt is careful to distinguish between the two.[2] For Arendt, legitimacy is solely procedural: "Power springs up whenever people act in concert, but it derives its legitimacy from the initial getting together rather than from any action that then may follow" (Arendt 1969). Violence is the

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[2] This is not a commonly accepted scholarly distinction. Arendt's definition of "power" closely resembles this thesis' use of "legitimacy" that is based on consensus found in scholarship. The paragraphs containing my response to Arendt's critique will return to the use of legitimacy for voluntary obedience except when explicitly referring to Arendt's concept.

opposite, for while it may be justified in individual circumstances its justification "loses in plausibility the farther away its intended end recedes into the future" (Arendt 1969). That is to say, every individual instance of violent action must be justified, ideally with an end very soon to come.

As mentioned before, Arendt's main focus was to critique contemporaneous thinkers like Frantz Fanon and Jean-Paul Sartre who considered violence a way out for the oppressed people of the world. As such, Arendt couches much of her positive argumentation in talk of revolution and uprising. Writing of the Prague Spring, Arendt points out that it was the Soviet's loss of power that lead it to rule by "sheer violence" (Arendt 1969). Had the Soviet system retained its power over the Czech people there would have been no need for Soviet forces to crush the uprising because the uprising would never have happened in the first place. That the power of the Soviet Union over its satellites is one of command and obedience rather than of mutual consent is irrelevant. The threat of violence, insofar as it generates power, is just as much a failure once violence has been initiated as the breakdown of power arrived at by mutual consent of free people. If not checked the end result of this rule by violence is totalitarianism – the rule by terror without power. However, because totalitarians rule without power they differ fundamentally from normal autocracies which, though established through violence, content themselves with doing violence on their enemies and thus retain an element of power through the organization of their friends. Totalitarian states, on the other hand, rule entirely through violence regardless of disposition towards the regime, eventually snuffing out all power and ending in total paralysis due to fear (Arendt 1969).

The implications of Arendt's theory for this thesis run along two parallel axes, the first of which is the tendency for seemingly hopeless situations to generate violent responses. Recognize

first that the situations described by this thesis do skew towards superficially hopeless and solution-less. Humanitarian emergencies perpetrated by an organized government can result in millions of lives lost and the prospect of terrorists lurking in all corners attempting to destroy the liberal way of life is similarly bleak, particularly when one accepts the low likelihood of being able to do anything about it. Furthermore, if we accept Rawls's premise that material deprivation is the root cause of oppression and terror then these problems become even more intractable. Despite their intractability, which is often recognized, states which are afforded a recourse to force through laws or norms, as this thesis has argued the liberal states ought to be, often turn to it without knowing whether things will actually be made better for it. When holding a hammer, everything starts to look like a nail. This is particularly true, argues Arendt, of that which is pronounced "sick" or shot through with a certain problem:

> "The notion of a 'sick society,' of which the riots are symptoms as fever is a symptom of disease – can only promote violence in the end. Thus the debate between those who propose violent means to restore 'law and order' and those who propose nonviolent reforms begins to sound ominously like a discussion between two physicians who debate the relative advantages of surgical as opposed to medical treatment of the patient. The sicker the patient is supposed to be, the more likely that the surgeon will have the last word." (Arendt 1969)

The "organic" metaphor is instructive as well because of the acute nature of the threats discussed by this thesis. Terrorism is an acute threat to life and, at a certain level of sophistication, the political system of liberal states itself. Humanitarian emergencies, while not possessed of the same threat to life in liberal states, generate a visceral reaction that leads politicians to force on behalf of an outraged electorate. Even worse, this visceral reaction often leads to a desire to punish those perpetrating the atrocities rather than the long-term process required by states in such dire straits.

The preference for forceful responses is further exacerbated by the unavoidable role of bureaucracy in the formulation of foreign policy. Even if the worst-case scenario described above, that of influence capture in the decision-making bodies, does not come to pass, the existence of such a group at all and their general preference for violence will still unduly influence liberal governments. Within a bureaucracy, even one nominally under the control of an elected government, internal incentives to comply with the wishes of superiors mean that the entire operation tends towards sycophancy and self-justification. Bureaucracy, which Arendt terms "rule by no-one," tends towards violence because there is no power. The lack of power stems from the fact that although people are acting together there is no clear will being exerted through the collective action. This, paired with the aforementioned self-justification, leads to the security bureaucracy of liberal states to continually push for forceful action even when none may be required.

The element of the bureaucracy being inherently violent is another reminder of how important democratic controls are. Recall that the argument for the democratic peace was, in the first place, that citizens are generally disinclined to go to war absent provocation and that states which reflect the will of their citizens will generally be peaceful. Thus, adequate political representation can prevent a bloated security apparatus from dominating the decision-making process when considering the use of force. Again deliberative legitimacy here adds another hurdle for those who would use force injudiciously, for it is not just the decision of any one liberal state to use force but rather the collective. So long as all of the states remain in proper consultation with one another the slide towards meeting any threat with force can be arrested by the citizens of other liberal states who have the power to influence their decision makers and ultimately get them to stop any use of force they do not wish their state to participate in.

More problematic is the opposition of power and violence and what it means for the liberal alliance's credibility and legitimacy outside the use of force. The end goal of the liberal alliance is to provide leadership for other states, with the eventual goal of liberalizing them through demonstrating the benefits of liberal governance and the peaceful relations between liberal states. If the use of violence by these states leads to the erosion of their persuasive power rather than the preservation of their liberal governance, then it is self-defeating and ought be avoided. Arendt's critique of violence, while far-reaching, is not unlimited. The state's power may well be eroded every time a police officer needs to use force, but the well from which that power is drawn is deep and regularly replenished if the government manages to stay responsive to its citizens. The highlighting of violence as the absence of power is less an argument against violence than an argument for the building of power.

Rawls's vision of the liberal alliance is not a passive group of like-minded states but an active leader of other states. Cosmopolitan critics of *The Law of Peoples* frequently decry Rawls's omission of the difference principle and its robust duties of redistribution. Though their objections arise from perceived inconsistencies in Rawls's position, we can add to their complaints the fact that aiding other states would, by Rawls's own logic, substantially reduce the need for liberal states to use force. If people are much more likely to become terrorists, support genocidal regimes, or become aggressive towards their neighbors under conditions of material deprivation and the resulting use of force undermines, at least to some degree, liberal aspirations then the logical conclusion is that steps should be taken to prevent those problems from arising. Although force is called for in some extreme situations, it should be recognized that its frequent use does sap the liberal alliance of its legitimacy, committed as it is to peace. The interplay of aid given to other states and the use force is self-reinforcing, because if liberal states are seen to be

generally beneficent in their dealings with non-liberal states then their occasional use of force

will be seen as more legitimate because it is assumed that other avenues had failed.

Conclusion

At the end of the *Law of Peoples* Rawls says that "political philosophy provides a long-term goal of political endeavor, and in working toward it gives meaning to what we can do today" (Rawls 2001: 128). In my introduction, I alleged that political philosophy tiptoed around international relations because of its irreducible complexity, and while I think more engagement with the topic would be welcome I cannot say that at the end of this thesis Rawls's long-term goal seems any more achievable with any fewer complications. Like the international community and its many actors, liberalism in a state is more reflective of a careful balance which must be maintained rather than a state reflective of any particular moment in time. Its strengths as a form of government also make it vulnerable: democratic accountability can lead to passing whims being adopted without analyzing the consequences, freedom of speech and association can lead to the permeation of dangerous ideas about other state or groups of people, and trust in the government can lead to blind faith in its decisions. In order to defend liberalism, I have argued that liberal states must preempt certain threats, but in doing so I warn that liberal states must not succumb to other instincts every bit as pernicious as those unleashed by a terrorist attack or humanitarian emergency.

Reviewing a book on the outlawing of war in the *New Yorker,* Louis Menand describes an analogy used by the authors, "There had been many efforts to change the codes of dueling and make it more humane, but people still dueled. Finally, dueling was banned, meaning that killing someone in a duel was murder, and dueling stopped. The way to stop war was, likewise, to remove its legal immunity." (*New Yorker* 2017). Such a response is inevitable when arguing that war is sometimes necessary, and it has obvious appeal. In the United States for example, the erosion of Congressional oversight over the use of force that began with the Korean War has

allowed successive Presidents to plunge the US into war with little to no accountability until long after it has occurred. Similarly, what began as a low-intensity campaign of "legal" air strikes against high-profile terrorists has ballooned into a global campaign against anyone who poses a slight threat to US interests that has cost thousands of noncombatants their lives. Thus, it is easy to see the appeal of an argument which says the slope is just too slippery to be worth it.

I think this slide into constant warfare that we have experienced over the last two decades says more about the character of today's "liberal" states and their citizens than about Rawls and this thesis. In Chapter 4, I addressed three primary challenges to my argument involving imperialism, public corruption, and the waste of political capital through violence. It is important to note that my responses to these concerns depended in large party on the good judgment of those in power, and especially of the citizens tasked with holding them to account. This thesis addressed the importance of maintaining citizen participation and attention because without it military commitments could spiral out of control or be undertaken for the wrong reasons, but the point is broadly applicable. Without an active and engaged citizenry a liberal democracy cannot be sustained in the face of any threat, let alone the threats raised by committing forces abroad.

Rawls's vision for the society of liberal states should also be fundamentally changed. The *Law of Peoples* sees it as an organization which "only goes to war as allies in self-defense against outlaw states" (Rawls 2001: 54), while I have argued for a more activist role wherein decisions to use force are made as a body by liberal states rather than merely in response to transgressions. This change in the nature of the body to collective deliberation and decision-making raises other questions about the extent of cooperation between liberal states, and even between liberal and decent states. A key implication of this transformed relationship is the role that distributive justice and the duty of assistance is changed by the new role taken on by the

liberal alliance. As alluded to in the last chapter, if liberal states want to avoid threats, and the violence with which those must be met. they ought to take it upon themselves to alleviate some of the material problems in other states. While Rawls limits the duty of assistance to burdened states and calls for a "cutoff" once those states reach political independence and maturity, it is clear that oppression and terrorism do not only originate from burdened states. Liberal leadership and the responsibilities accorded to the liberal alliance as the only legitimate actor against terrorism and humanitarian disasters incurs a reciprocal responsibility on liberal states to prevent those situations from arising if possible. Thus, in replying to the objections about the consequences of force commitment, this thesis also provides an alternate forum for liberal leadership by adding a security element to the moral duty to assistance.

Furthermore, the method by which liberal states arrive at the decision to use force offers a different structure for legitimating other kinds of international agreements. Many human rights advocates express frustrations about the international system similar to those elucidated in my introduction. That is, that it makes little to no distinction between states which afford their citizens basic human rights and democratic participation and those which afford their citizens neither. By limiting discussion to those who are genuinely interested in serious deliberations, rather than treating the international community writ large as an interested party, it might be possible to conclude more efficacious agreements. For most topics, only a narrow section of the international community is interested in them. Limiting discussion to those narrow sections would allow better discussion and agreements because uninterested parties cannot use deliberations as a proxy for other issues as easily. Additionally, the discussion in Chapter 3 about legitimacy and decent states has implications of a similar nature regarding their participation in democratic systems internationally for as long as they are denying democracy to some or all of

their own citizens. Perhaps all international institutions, not just those concerned with international security, should try and be more attuned to the domestic situations in the states taking part.

That is not to say that liberal states or international institutions should abandon the principle of toleration. The *Law of Peoples* is a book-length engagement with the paradoxes of inclusion and the international community, and at the end of this thesis I still agree that by-and-large the international community should be inclusive and tolerant, even though I argue that the security aspects should be emphasized by liberal leadership. In the end, it is important to recognize that neither individual states or the international system will probably never be brought to a satisfying end state of a fully just international system. That said, as liberal states aspire towards what Rawls has characterized as a realistic utopia, they must bear in mind not only their own security and the corresponding promotion of liberal values, but also that they should not cast their domestic aspirations towards order and peace aside merely because international relations is complex. Rather, I argue that they should not only defend what justice they have achieved in their own states, but encourage it abroad and not allow complexity and short-term national interest to get in the way of a more just international system for all people.

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