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REVOLUTION AND INTERVENTION

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Provided that traditional *jus ad bellum* principles are fulfilled, military humanitarian intervention to stop large scale violations of human rights (such as genocide, crimes against humanity or war crimes) is widely regarded as morally permissible. In cases of “supreme humanitarian emergency”, not only are the victims morally permitted to rebel, but other states are also permitted to militarily intervene. Things are different if the human rights violations in question fall short of supreme humanitarian emergency. Because of the importance of respecting political self-determination, in cases of “ordinary oppression”, we normally think that rebellion might be permissible, but not military humanitarian intervention. Thus, according to the received view, the conditions for the permissibility of intervention coincide with the conditions for the permissibility of revolution in cases of supreme humanitarian emergency, but not in cases of ordinary oppression. In cases of ordinary oppression there is an asymmetry between the conditions for the permissibility of revolution and intervention (call this the Asymmetry View). Should we accept the Asymmetry View? I answer this question by outlining an account of political self-determination and by illustrating the complex role that this notion should play in discussing the morality of revolution and intervention.

It is widely acknowledged that, subject to traditional *jus ad bellum* principles being fulfilled, military humanitarian intervention to stop large scale violations of human rights, such as genocide, crimes against humanity or war crimes is morally permissible. In cases of “supreme humanitarian emergency” (Wheeler 2000), not only are the victims morally permitted to rebel, but other states are also permitted to militarily intervene.

Things are different if the human rights violations in question fall short of supreme humanitarian emergency (call these cases of “ordinary oppression”). Here we normally think that rebellion might be permissible, but not humanitarian intervention. Consider, for example, the situation in Egypt after the military coup led by al-Sisi in 2013. The injustices perpetrated in Egypt in the last five years are not comparable to those committed by Idi Amin in Uganda or by the Khmer Rouge in Cambodia. Still, they are very serious. Tens of thousands of people have been

imprisoned, often without charge or trial, and hundreds have been sentenced to death after mass trials in which they lacked any meaningful opportunity to defend themselves. Plausibly, Egyptians would be permitted to rebel and bring down the al-Sisi regime, provided that traditional *jus ad bellum* principles are fulfilled (the harm caused by the revolution is necessary and proportionate to stop the human rights violations; the revolution has a reasonable chance of success etc.). And yet, many would object that military intervention in Egypt is clearly impermissible.

Thus, according to the received view, the conditions for the permissibility of armed humanitarian intervention (henceforth, “intervention” for short) coincide with the conditions for the permissibility of revolution in cases of supreme humanitarian emergency, but not in cases of ordinary oppression. Should we accept this view?

Michael Walzer famously argues that we should (Walzer 2006, 89–91; Walzer 1980, 214). For him, military intervention is only acceptable to stop large-scale human rights violations. In cases of ordinary oppression, revolution might be permissible but not intervention. For oppressed communities retain their right to political self-determination, which entitles them to choose how to shape their own future; and this right includes the right to decide for themselves whether they want to rebel, when and how.ⁱ In his words, the members of oppressed communities are

as free not to fight as they are free to rebel. But that freedom does not easily transfer to foreign states or armies and become a right of invasion or intervention; above all, it does not transfer at the initiative of the foreigners (ibid).

The right to self-determination is not a shield against intervention in cases of supreme humanitarian emergency, according to Walzer, because “when a government turns savagely upon

its own people, we must doubt the very existence of a political community to which the idea of self-determination might apply” (Walzer 2006, 101). But in cases of ordinary oppression, the existence of a self-determining political community is not undermined, and thus such community has a right to decide for itself whether to resort to violence or not. This right is what places a constraint on external interference.ⁱⁱ

Walzer’s argument has been widely rejected in the philosophical debate (Doppelt 1978; Luban 1980; Tesón 2005, 92–99). Some have objected to his account of political self-determination, whereas others have objected to the very idea that political self-determination is sufficiently valuable to place any constraints on humanitarian intervention. Either way, the view that in cases of ordinary oppression respect for political self-determination is a bar to humanitarian intervention has now been largely abandoned.ⁱⁱⁱ

That this is the consensus in the philosophical debate is underappreciated, I think, because some theorists have insisted that a condition for the permissibility of humanitarian intervention, at least in cases of ordinary oppression, is that the intended beneficiaries of the intervention consent to it (Tesón 2005, 93–94; Pattison 2010, 144–46). But the consent in question is the consent of the individual victims of the regime, not the consent of the political community. Thus, the limits that consent places on intervention, according to these theorists, are not determined by the value of respecting political self-determination, but rather by the value of respecting the decisions of individuals.^{iv} And indeed, more recently, the claim that consent should play this role has been forcefully rejected. A number of prominent philosophers have argued that if traditional *jus ad bellum* principles are fulfilled, intervention is permissible independently of whether it is welcomed by its intended beneficiaries (McMahan 2010; Altman and Wellman 2011, chap. 5; Tesón 2003;

Tesón 2017, chap. 3). This is because the same reasons that make revolution permissible in these cases also make military intervention permissible (Tesón 2017, 77).

In this paper, I reject this view and reclaim a central role for political self-determination as an independent constraint on the permissibility of humanitarian intervention. Respect for political self-determination, I will suggest, is a further *jus ad bellum* condition that needs to be fulfilled for humanitarian intervention to be permissible in cases of ordinary oppression (though not in cases of supreme humanitarian emergency). In this respect, my view is closer to Walzer's than to the current consensus. Beyond that however, my view and Walzer's have little in common. I share many of the criticisms that have been raised against his account of political self-determination (which I will not rehearse here); moreover, I disagree with his understanding of how political self-determination constrains intervention. Indeed, in a sense, my project is precisely to take the central insight of Walzer's view and provide an alternative, more plausible articulation of it.

Where does this leave us with respect to the question of the alleged asymmetry between the conditions for the permissibility of revolution and intervention in cases of ordinary oppression (call this the Asymmetry View)?^v Walzer's critics explicitly reject the Asymmetry View because they reject the idea that respect for political self-determination constrains humanitarian intervention. If I am right that this is a mistake, we might think that the Asymmetry View is vindicated for the reasons offered by Walzer. I will suggest that things are more complicated than that. For once we pay attention to the dynamics through which revolutions typically unfold, a new symmetry between the conditions for the permissibility of revolution and the conditions for the permissibility of intervention emerges.

I proceed as follows: in section 1, I briefly outline an alternative account of political self-determination to the one offered by Walzer. In section 2, I use this account to rebut two important

objections that have been employed to dismiss the relevance of political self-determination for the permissibility of intervention. If my arguments are successful, they will lend support to the claim that political self-determination is a further *ad bellum* condition that constrains the permissibility of humanitarian intervention. In sections 3 and 4, I illustrate the complex role that political self-determination should play in the debate on humanitarian intervention. Finally, in section 5, I go back to the question of the relationship between the conditions for the permissibility of revolution and the conditions for the permissibility of humanitarian intervention.

Two caveats are in order before we begin. First, I confine myself to discussing the moral permission to militarily intervene in an unjust state and to rebel against it. I will not consider the question of whether these moral permissions should receive legal protection. It would be a mistake to assume that they should. Whether a moral permission should be legally protected depends on considerations of institutional design and should be sensitive to the risk of abusing the legal protection in question. This risk is particularly serious in the context of intervention, since: a) states are prone to invoke the permission to intervene militarily in other states as an excuse to pursue their own self-interest, and b) enforcement mechanisms to counteract this tendency in the international context are particularly weak.

The second caveat concerns a simplifying assumption that I make throughout the paper: I will only discuss cases in which there is a single political community whose self-determining agency is at stake. Often things are more complicated than that. The sort of human rights violations that raise the question of the permissibility of intervention or revolution are frequently caused, at least in part, by the presence of different self-determining communities living in the same state. This raises complexities that I cannot address here. Since we currently lack an adequate understanding of the constraints that political self-determination places on intervention and

revolution, I focus on the problem of articulating these constraints in the simple case in which there is only one political community whose self-determination is potentially threatened. Once we have a better understanding of how these constraints operate in the simple case, we can use it to tackle more complex ones.

1. What is political self-determination?

Political self-determination is the process through which a political community autonomously decides how to govern itself and direct its future, thereby shaping its own identity as a result of its choices. Two models are prominent in the most recent debate. One appeals to a strong notion of group agency and claims that a community is self-determining when its members develop “collective intentions,” whereby they adjust their conduct in response to each other’s mutual expectation that these intentions are being collectively pursued by all the members (Stilz 2016; Moore 2015). Another model appeals to weaker forms of group agency which simply requires the existence of some deliberative process—for example, a voting system—that enables the agency of the individual members to be combined in such a way that the outcome of their collective deliberation can be said to be the expression of the agency of the community (List and Pettit 2011; Buchanan 2015; van der Vossen 2017, 180–88).

Both models (call them the “Collective Intention Model” and the “Deliberative Model”) constitute different ways of giving expression to the central insight that the agency of a self-determining political community is not merely the product of a number of uncoordinated instances of individual agency. Political self-determination requires more than that. It requires that the members of the political community must be “unified in certain ways” and “together constitute a unit, a collective self” (McMahan 1996, 8). If all we have is a collection of individuals acting

independently, what we witness is merely the sum of individuals acting together, rather than genuinely collective self-determination (Applbaum 2007, 375; Buchanan 2015, 450–51).^{vi}

An investigation of the differences between the Collective Model and the Deliberative Model is beyond the scope of this paper. What I am interested in here is rather the central idea they share, namely that the exercise of collective agency required for political self-determination is produced by the way in which the members of the group exercise their personal agency. In both models, members interact with an eye to determining how the group will act. They do so either by forming the intention that the group will act in a certain way, and responding to the mutual expectations that this intention generates, or by giving their input in the deliberative process that will eventually lead the group to act.

When members vote, pay taxes, form collective intentions, or engage in public discussion of important issues concerning their political community, they are engaging in one of these forms of group agency. And it is in this relationship between the exercise of group agency (how the group acts) and personal agency (how the members of the group act) that ultimately political self-determination is grounded: a political community is self-determining when it is apt to regard the way in which the group acts as a genuine expression of how its members have mixed their personal agency. Call this the “Interactional Account” of political self-determination.^{vii}

For the purposes of this paper, I will presuppose that the Interactional Account is roughly correct. My aim here is not to defend it,^{viii} but to rely on it to explain how political self-determination morally constrains the permissibility of humanitarian intervention and revolution. To this task, I now turn.

2. Political self-determination and intervention

In this section, I argue that respect for political self-determination is a further *jus ad bellum* condition that needs to be fulfilled for humanitarian intervention to be permissible. Focusing exclusively on the issue of whether intervention is a necessary and proportionate response to the violation of more basic human rights (such as the right to life and limb or the right to not be enslaved)^{ix} is a mistake because we value not only that members of political communities have their basic rights protected, but also that they are able to exercise their political self-determination.

One way to see this is to notice that we would object to instances of colonialism realized by powers that respect and protect the basic human rights of their colonies. Colonial domination is objectionable, even if not accompanied by violations of basic human rights, precisely because it violates the right to political self-determination of the colonized. Thus, denying that political self-determination places any constraint on humanitarian intervention, as most contemporary just war theorists do, is hard to reconcile with the value we tend to attribute to political self-determination when we discuss the injustice of colonialism.^x

In response, we might object that when states are responsible for severe human rights violations, considerations of political self-determination become irrelevant for the question of the permissibility of intervention. Andrew Altman and Christopher Wellman make this point when they write:

We agree that countries can be entitled to political self-determination, but we deny that states retain this right as long as they steer clear of a supreme humanitarian emergency. We suggest, instead, that the same threshold that determines when a state has the right to rule insiders (“internal legitimacy”) also determines when a state has a right against interference by outsiders (“external legitimacy”) (Altman and Wellman 2011, 100).

If this is correct, political self-determination cannot explain why there are cases in which humanitarian intervention is impermissible and revolution isn't. As soon as a state loses its right not to be attacked internally (by its own citizens), it also loses the right not to be attacked externally (by outsiders). The two go hand in hand (Tesón 2017, 73).

However, this argument rests on the conflation of political self-determination with political legitimacy. Self-determination is not a right that primarily belongs to the state. Rather, it belongs to the political community or, as it is sometimes put in international law, "the people." The people have the right to govern themselves and decide how to direct their future. When a state is legitimate, it can exercise this right on behalf of the people; when it isn't, it cannot. But when the state loses its claim to do so, the right of the people does not disappear. In this case, while the state lacks a complaint against intervention, as Altman and Wellman correctly point out, the people don't. And since the people retain the right to govern themselves, they do have a complaint against unwanted intervention.

So, for example, the state of Egypt –the political organization controlled by the Egyptian government– might have lost its right against intervention, given how badly it is behaving toward its own citizens. But Egyptians –the members of the Egyptian political community– have not lost the right to decide for themselves how to act collectively, and this right does constrain what third parties may do in order to help them.

A second objection is more promising. Even if I am right that a state can lose its external legitimacy without the political community thereby losing its right to political self-determination, we could still object to the idea that this right is a bar to intervention, when intervention is necessary to prevent serious human rights violations. To see why, let's bracket the unrealistic case

in which *all* the members of a given political community object to intervention. The remaining cases that can be plausibly described as cases in which “the political community objects to the intervention” will be those in which a majority of the population objects, while a minority favours intervention. And it’s easy to imagine that the group of those who object to the intervention and the group of those who are responsible for the human rights violations will overlap to a significant extent. But how can the fact that the majority does not want the minority to be rescued create a duty not to rescue it (McMahan 2010; Tesón 2003)? This would be a way of empowering

the group's majority – whenever they so choose – to force the minority to remain in a position where their human rights are vulnerable to violation. It seems dubious that a group has this type of normative dominion over its members. (Altman and Wellman 2011, 109.)

Thus, the objection goes, we should reject the view that consent is a necessary condition for the permissibility of intervention. Lack of consent might be evidence of the fact that the risks presented by intervention are too high, since locals are often best placed to assess such risks; or it might give us reason to believe that locals would resist the intervention, thereby making it harder for the intervention to meet the reasonable chance of success requirement or the proportionality requirement. But the role of consent is purely epistemic: ultimately what rules out the permissibility of intervention is that the war would be disproportionate or lack a reasonable chance of success. As Jeff McMahan puts it, “familiar principles of *jus ad bellum*, and especially the proportionality condition, do all the substantive work that consent is supposed to do” (McMahan 2010, 52).

This is a powerful objection, but I believe it can be addressed. What seems clear is that those who are responsible for the human rights violations should not have a say about whether intervention to stop those violations ought to take place. Whether they are directly responsible for the violations, because they have actively contributed to them, or indirectly responsible, because they failed to contribute to preventing the violations when they could have done so at a reasonable cost to themselves (for example, they failed to protest against the unjust regime because it protects their economic interest), these subjects forfeit their right to have a say in the matter.

They do so for two reasons. The first is instrumental: their involvement in the human rights violations is evidence of the fact that they are not competent participants in the process of political self-determination. In failing to acknowledge and respond to the value of their fellow citizens targeted by the regime, these subjects demonstrate that they are unfit to decide how the political community should govern itself, at least in this domain, because contributing to (or wrongfully allowing) the human right violations suffered by their fellow citizens, is incompatible with acknowledging the value of deciding collectively with the rest of the political community –which includes the victimized citizens– what should happen to it.^{xi}

The second reason is non-instrumental and is based on the limits that constrain the means we may employ to pursue our goals, whether we act as independent moral agents or as members of groups. We may pursue our goals neither by wrongfully harming others (I may not kill someone in order to get the job we are competing for), nor by allowing the harming of others for our personal benefit, when we could prevent the harm at a reasonable cost to ourselves (I may not refuse to throw someone a lifesaver because his death will facilitate my career). Thus, those who are responsible, directly or indirectly, for the human rights perpetrated by an oppressive regime, forfeit their right to have a say as to whether intervention should take place, because no matter what goal

they are pursuing in so doing, harming (or allowing the harm of) their fellow citizens in this way falls outside the scope of the means they may permissibly employ to reach it.

Exercises of our personal agency are not worthy of respect, and thus place no constraints on interference, when they overstep the scope of the means we may permissibly employ to reach the goals we pursue qua individuals. This is why any objection I might raise to someone interfering with my attempt to physically eliminate a job competitor has no force. Similarly, our contributions to exercises of collective agency are not worthy of respect, and do not contribute to placing constraints on interference, when they overstep the scope of the means we may permissibly employ to reach the goals we pursue qua members of a group. This is why any objection I might raise to others rescuing my fellow citizens from human rights violations for which I am partly responsible has no force.

These are the reasons why those responsible for the human rights violations perpetrated by the unjust regime forfeit their right to have a say in deciding whether intervention should take place.^{xii} However, the rest of the political community does *not* forfeit its right in the same way. It would be perverse if it did. If the bad behavior of those responsible for the injustice undermined the right of the entire political community to be self-determining, they would indeed have a dubious moral power: The power of depriving the rest of the political community of its right to autonomously decide what should happen to it. But wrongdoers lack this moral power. While they forfeit their own right to have an input in the process of collective deliberation (in the same way in which in certain jurisdiction felons forfeit their right to vote),^{xiii} their behavior cannot undermine the right of innocent citizens.

Importantly, here we should not assume that only those who are responsible for the human rights violations will object to the intervention. The rest of the community, including the victims,

will have different views as to whether intervention should take place, and some of its members might reasonably object to it. Some may be pacifist, some may be afraid of the risks for the long term stability and independence of their community, some might fear the impact that the interveners will have on cultural or political practices, whose importance for the local conception of the good life is not adequately recognized by outsiders –say, because the value of this conception of the good life is the object of reasonable disagreement (Finlay 2010, 293–94). Insofar as these members are committed to deciding together what should happen to them (more on this below), and they exercise their right to do so by mixing their agency in the way described by the Interactional Account, they retain a claim against unwanted interference.

In other words, once we remove the input of perpetrators from the process of collective deliberations, there is still a self-determining agent, which is constituted by different members of the political community interacting in the relevant way. What matters to assess the permissibility of the intervention is what this group decides.

Two caveats are worth stressing. First, we have seen that in order not to forfeit their right to have a say in deciding whether intervention should take place, members of the political community must neither be directly responsible for the human rights violations at hand, nor have failed to contribute to their prevention, when they could have done so at a reasonable cost to themselves. One implication of this condition is that opposition to intervention cannot be grounded on trivial reasons, negligent lack of reflection, or attempting to benefit from the injustice perpetrated by the regime. Objecting to intervention on these grounds would be incompatible with fulfilling the duty to contribute to preventing the violations at a reasonable cost to oneself, and thus has no weight in the deliberation process. (Not being negligent in considering the matter of intervention is not unreasonably costly, nor is refraining from benefiting from injustice).

Morally binding opposition to the intervention must be grounded in acceptable moral reasons, such as the adoption of pacifism or the worry that intervention might disrupt valuable cultural or political practices. Objecting to intervention on these grounds is not incompatible with fulfilling the duty in question because neither the sacrifice of pacifist convictions nor the sacrifice of valuable cultural and political practices qualifies as a reasonable cost. Thus, one factor that will affect whether the objection to intervention has moral force is the reasons invoked to justify it. Only some of these reasons have force.

The second caveat is that the members of the political community must remain committed to deciding together what should happen to them. This might not always be the case. It might happen that some members of the community, most likely some of the victims of the human rights violations, are no longer committed to exercising their right to political self-determination, but simply want to be rescued. Since my argument concerns the limits that our interest in political self-determination places on intervention, these individuals are not meant to be covered by it. Protecting their human rights does indeed provide powerful reasons for intervention, which will have to be balanced with the reasons we have to respect the right to political self-determination of the remaining political community.^{xiv}

As always, with this kind of balancing, no simple formula can be offered. A number of factors will affect the outcome, including of course, the number of members who wish to opt out. Here I will limit myself to two considerations: First, while no doubt there will be cases where protecting the human rights of these individuals will take precedence over respecting political self-determination, it would be a mistake to assume that it always will. For example, most people think that it would be impermissible for Canada to militarily intervene to prevent the US from pursuing some of its current health or criminal justice policies, which lead to the regulation violation of the

basic human rights of many of its most vulnerable citizens. And we think that this would be impermissible even if some of these citizens would choose the intervention over continuing to take part in the process of collective deliberation that has led to the adoption of these policies. Despite the existence of serious human rights violations, we normally think that intervention would be impermissible because of the claim of the American people to have their political self-determination respected.

More importantly, even if we concede, arguendo, that the right to political self-determination is always overridden by the human rights of those who wish to be rescued at the cost of opting out of the political community, this would not undermine my view, nor would it make it extensionally equivalent to the view defended by philosophers such as Altman and Wellman, McMahan or Tesón. For my position is that respect for political self-determination places a *pro tanto* constraint on intervention, and the distinctive feature of *pro tanto* constraints is that even when they are defeated, they are not morally inert.^{xv} To begin with, defeated *pro tanto* constraints generate *pro tanto* duties to apologize or compensate. Moreover, we are normally required to bear greater costs to avoid a certain course of action when there is a *pro tanto* constraint against it than when there isn't.

So, even if we were to imagine that intervention is always permissible, all things considered, whenever some individuals consent to it, my view would still be importantly different from the one defended by Altman and Wellman, McMahan or Tesón. If there is a *pro tanto* constraint on intervention grounded in the value of political self-determination, the intervening party might have to bear extra costs to respect the will of the political community, which it would not have to bear if there was no constraint. (For example, the intervening party might be required to make concessions to the oppressors, as an alternative to military intervention, that it would not

otherwise be required to make. It would have to do so even if such concessions would be more burdensome for the intervening party than military action.) And even if intervention turns out to be permissible all things considered, there would still be some moral reminder associated with the infringement of the right to political self-determination, in the form of a claim for an apology and, possibly, compensation.

3. Intervention when the conditions of political self-determination are not in place

I have argued that, in addition to fulfilling the traditional *jus ad bellum* principles, wars of humanitarian intervention must fulfill the further moral requirement of respecting the right to self-determination of the political community they intend to benefit. In the next two sections I articulate how this further condition on the permissibility of intervention operates.

Consider the case in which state T could militarily interfere with the sovereignty of state Y to stop the human rights violations perpetrated there, where these violations fall short of supreme humanitarian emergency. In principle, the safest way to ensure that Y's political self-determination is respected is to make the intervention conditional on Y's actual consent to it (assuming that consent is freely given and not the product of coercion or manipulation). In practice, several complications arise.

One problem is that the conditions for political self-determination might not be in place in Y, and thus Y might be incapable of exercising its self-determining agency to begin with. Another problem is that even if these conditions are in place, typically it will be harder for Y's members to interact in the way required to consent or refuse consent to intervention, when they are living under an oppressive regime that is perpetrating the sort of human rights violations that justify resorting to war. This can be for two reasons: it might be that while Y's political community is capable of

exercising its group agency, it cannot do so in the way required to formulate the intention to consent; or it might be that the community is capable of formulating the intention to consent, but it is unable to communicate that intention. I will consider these three scenarios in turn.

We have seen that political self-determination is ultimately grounded in the existence of a particular relation between the group agency of the political community and the personal agency of its members. If so, we should conclude that whenever this relation doesn't exist, self-determination does not obtain. This is important because when a state engages in sufficiently serious human rights violations (or allows such violations to occur), the capacity of its subjects to exercise their personal agency in significant ways is typically undermined, and this makes them unable to interact in the way required by the Interactional Account. When this is the case, the political community can no longer exercise its self-determining agency, and thus intervention cannot be objected to on the grounds that it would interfere with such agency.^{xvi} Indeed, in this case, far from being a reason against intervention, Y's political self-determination becomes a powerful reason for intervention, if intervention is necessary to restore it.^{xvii}

To see this better, consider the reason why we normally object to paternalistic interference with personal agency. The objection is that paternalistic interference undermines our capacity to be self-determining agents, i.e. to be the authors of our own life. However, as Joseph Raz notices, we can be the authors of our life only if certain conditions are in place (Raz 1986, 370–73). We must:

- a) have the capacity to form and execute sufficiently complex intentions;
- b) have an adequate range of options from which we can choose the sort of life we want for ourselves;
- c) be free from coercion and manipulation as we make this choice.

Call these the “conditions of personal self-determination.”^{xviii}

It seems plausible that at least some forms of non-consensual interference with our personal agency are permissible in virtue of the fact that they will improve, rather than set back, our capacity to be the authors of our life by protecting the conditions of our personal self-determination. For example, someone who suffers serious brain injuries following a motorcycle accident loses an important element of her capacity to lead the life she has chosen for herself, if conditions a) and b) are compromised. If so, depriving motorcyclists of the option to ride their motorcycles without wearing a helmet might be a justified form of interference. This intervention is justified not by appealing to some other value to be traded off against the value of self-determination, but rather by appealing to the conditions that need to be in place for self-determination to be enjoyed.

A similar story can be told with respect to political, as opposed to personal, self-determination. For the right relation between the group agency of the political community and the personal agency of its members to obtain, some conditions must be in place. Its members must:

- a) be able to interact in the way required by the Interactional Account (since this is how the political community can exercise its autonomous agency by forming and executing complex intentions);
- b) have an adequate range of options from which they can choose the goals to collectively pursue;
- c) be free from coercion and manipulation as they choose and pursue these goals.

Call these “the conditions of political self-determination.”

These conditions include the resources and the liberties that the members of the political community need to enjoy to be able to act as required by the Interactional Account. As a minimum, this will require that their most fundamental human rights are not violated and that their ability to

shape their community by voting or engaging in other forms of political participation is protected. When these conditions are undermined, as is typically the case in oppressive regimes, members lack the capacity to interact in the way required for their community to be able to exercise its political self-determination. If so, intervention aimed at protecting them or at restoring this capacity cannot be objected to on the grounds that it would interfere with the community's exercise of its political self-determination. Here too, intervention can be justified precisely by appealing to the conditions that need to be in place for self-determination to be enjoyed. The value of protecting human rights and the value of political self-determination in this case converge, instead of pulling in opposite directions.

Indeed, the argument for interference is even stronger here than in the case of helmet legislation. For the latter is an example of paternalistic interference, to which some might object on the grounds that self-determination is best understood as a value to be honored, rather than promoted (Kutz 2016, 167).^{xix} The same objection cannot be raised against my argument for humanitarian intervention, since the argument is that interference aimed at protecting human rights and restoring the conditions for political self-determination is permissible *when the conditions of political self-determination are not in place*. When the conditions for self-determination are not in place, there isn't an exercise of self-determining agency that can be honored to begin with.^{xx} Thus, the main demand that the value of Y's self-determining agency places on T in this case is to create the conditions for its exercise.^{xxi}

The claim that intervention cannot be said to interfere with Y's self-determining agency whenever Y lacks the conditions for political self-determination, should not be confused however, with the claim that intervention cannot violate Y's right to political self-determination.^{xxii} For Y's right to political self-determination can be violated even if Y cannot currently exercise its self-

determining agency because of the human rights violations perpetrated by the regime. For example, suppose that Y had previously enjoyed the conditions for political self-determination and signed at that time a treaty authorizing Z, but not T, to militarily intervene, under certain circumstances.^{xxiii} In this case, all things equal, it would be impermissible for T to intervene, if Z was willing and able to do so. Or imagine that Y had previously consented to particular methods of intervention (say, no-fly zones), and rejected others (air raids). In this case, all things equal, employing air raids would be a violation of Y's right to self-determination, whereas creating no-fly zones would not. Similarly, if military intervention (or military intervention of a certain kind), would be incompatible with some of Y's autonomously chosen goals, values or preferences (perhaps Y is a community of committed pacifists, or perhaps its members aspire to realize the Millian/Walzerian ideal that they should earn their own freedom by fighting, rather than having it handed to them by someone else), respect for Y's self-determination would count as a reason, though not necessarily a decisive reason, against intervention.^{xxiv}

Respecting Y's right to political self-determination thus, does not simply require respecting Y's current exercises of its self-determining agency, i.e. respecting Y's (present) actual consent to intervention. How Y has previously exercised its agency, or how Y would do so in light of its own values and preferences, also places constraints on intervention, despite the fact that Y currently lacks the conditions for political self-determination. The notion of *past consent* and of *hypothetical consent* can be employed to capture these two ideas.

One worry might be raised about past consent: While appealing to past decisions seems an appropriate way to respect the self-determining agency of individuals (as in the case of advance directives given in relation to medical decisions), it's less clear that the same holds for the self-determining agency of political communities. Since generations change over time, many

(sometimes all) of those who are treated in accordance with prior decisions did not have any say in making those decisions. For this reason, we might doubt that conforming to those decisions is a way of respecting the self-determining agency of the current members of the political community. At most, one might think, doing so would be a way of respecting the self-determining agency of the previous political community.

This worry raises deep philosophical problems to which I cannot do justice here. I will limit myself to observe that we normally think that political communities do retain sufficient integration across overlapping generations for them to be bound by previous decisions. If that was not the case, we could not expect them to respect international treaties, including peace treaties, signed in a distant past or to be bound by constitutional arrangements. And yet we normally think that constitutional arrangements and past international treaties are morally binding. And we think that they are binding precisely because they are an expression of the will of the political community, even though most of the members currently bound by them typically did not have a say in producing them.^{xxv}

The notion of hypothetical consent is also contentious, but notice that the role of hypothetical consent here is simply to identify which intervention would be compatible with Y's values and preferences. I am not claiming that the fact that Y would consent to T's intervention, if given the opportunity to do so, can change Y's or T's normative situation in the way in which actual consent does. (This is the view that critics like Judith Thomson (1990, 181–88) object to.) I am suggesting that considering the question of whether Y, given its *actual* preferences and values (rather than some idealized ones), would consent to T's intervention is how we can determine that the intervention is compatible with Y's values and preferences. This, in turn, is the best way to

establish that the intervention is compatible with Y's self-determination, when resort to actual consent –present or past– is not available.

4. Intervention when the conditions of political self-determination are in place

Consider now the case in which Y does enjoy the conditions for self-determination. When its members suffer violations of human rights so significant as to warrant resort to humanitarian intervention, it will likely be hard for them to interact in the way required for the community to be able to consent (or refuse consent) to intervention. This might be for two reasons: first, despite being generally capable of exercising their group agency, Y's members might be prevented from doing so in the way required for the community to be able to formulate the intention to consent to intervention; second, the community might be capable of formulating the relevant intention, but unable to communicate it to potential interveners. How should we deal with these two scenarios?

To fully address the first one, we would have to choose between the Collective Intention Model and the Deliberative Model, and spell out our chosen model to a greater extent than I can do here. To keep things simple, suppose, somewhat unrealistically, that the way in which Y's members should interact to form the intention to consent to intervention is by having a referendum,^{xxvi} but that the regime blocks any efforts to have such referendum. In this case, Y cannot consent because its members cannot engage in the sort of group agency required to form the intention to do so. Here, Y's political community does enjoy the conditions for political self-determination, because its members normally can engage in the relevant form of group agency (the regime does not prevent referenda to decide health policies, redistributive measures etc.); however, they are prevented from exercising their group agency in relation to the specific issue of deciding whether to consent to intervention.

In this case too, we should conclude that T's intervention is permissible if it is compatible with Y's past consent and hypothetical consent. This is because, as we have seen in discussing the case where Y lacks the capacity for political self-determination, not every action carried out without Y's present consent is an action against Y's will. We care about Y's present consent because normally when a political community enjoys the conditions for self-determination, present consent protects the community's right to autonomously decide whether to be helped or not. But this is not true in the case at hand. Here the reason Y didn't form the intention to consent is not that its intention was to not consent, but rather that Y could not engage in the sort of deliberation required to consent. Thus, T's intervention would not be going against Y's autonomous decision not to be helped, for the simple reason that no such decision was made.

Suppose now that Y does have the capacity to engage in the sort of deliberation required to form the intention to consent to intervention, but that after having formed the relevant intention, consent cannot be communicated. This could be because the regime has blocked any reliable communication with the international community or, say, because it's difficult for the international community to identify who can speak on behalf of Y's political community. In this case, there is a matter of the fact as to whether the members of Y have consented to the intervention, but there is no reliable way for outsiders to have access to this piece of information. Here T's intervention is permissible if T has sufficient reasons to believe that Y has formed the intention to consent, although it hasn't been able to communicate it. T should look at signs of the fact that Y's political community has consented and decide on the basis of the evidence available. The epistemic obstacles to forming a sufficiently reliable judgment can be significant of course, and we should be wary of any self-serving biases afflicting T (Miller 2003), but in principle overcoming these obstacles is not impossible.^{xxvii}

This view might seem overly permissive. If we value Y's self-determination, shouldn't we stick to a policy of rigorous non-interference unless we know for sure that consent has been given? I think that we shouldn't. In the scenario at hand, we know that intervention would respect Y's self-determination if it was consented to and would fail to do so if it wasn't. We simply don't know which of the two antecedents is true. It would be a mistake to think that in this case, respect for Y's self-determination requires T not to interfere. Rather, T is required to try and act in a way that best approximates what Y has autonomously chosen. If T has sufficiently strong reasons to believe that intervention was consented to (taking in due consideration the risk of self-serving biases), respect for Y's self-determination requires T to intervene. In this case, consent can be presumed.^{xxviii} Otherwise, an unjust regime could protect itself against intervention by simply preventing its population from communicating its consent.

Here it might be objected that once we spell out the constraints that political self-determination places on intervention by appealing to presumed consent or hypothetical consent, we are left with very vague indications of when intervention is permissible and when it isn't. How can we expect these notions to guide the decisions of governments and international institutions? This is a genuine difficulty, but it should not be exaggerated. One way in which the international community can address this problem is by using reports such as the *The People on War*, a series of public opinion surveys conducted in 12 war torn countries by the *International Committee of the Red Cross* to better understand their perception, among other things, of humanitarian intervention, and "to find ways to protect them better in times of armed conflict."^{xxix} The fact that a given country in the report has manifested to be in favour of intervention to address certain types of humanitarian emergency, can be taken as evidence of the fact that humanitarian intervention, at least in principle, is not incompatible with its values and preferences. If so, provided that suitable

background conditions are in place, intervention in that country might be thought to pass the hypothetical consent test, and possibly also the presumed consent test. (If the community has deliberated but we don't know the result of the deliberative process, the fact that intervention was welcome in the recent past might give us reason to act on the assumption that the attitude hasn't changed, and thus presume that the decision is once again in favour of intervention, provided that the difference between the current situation and the previous one is not significant).^{xxx}

To be sure, the information that can be extracted from reports such as the ICRC's *The People on War* is partial, and thus imprecise. But this is the nature of presumed and hypothetical consent. Both presumed and hypothetical consent provide us with a justification for acting under conditions of uncertainty, by relying on incomplete evidence, when further evidence cannot be accessed. No doubt, relying on hypothetical or presumed consent is risky, but just like the risk of abusing actual consent^{xxxii} should not lead us to abandon the permissibility of intervening when the conditions for actual consent have been secured, the risk of abusing presumed or hypothetical consent should not lead us to abandon the permissibility of intervening when the conditions for these other forms of consent have been secured.^{xxxiii} Once again, if it did, unjust regimes could insure themselves against intervention simply by preventing their populations from consenting to it or communicating their consent. Instead, the risk of abuse gives us powerful reasons to create institutions that could be relied upon in deciding when the relevant conditions for intervention are fulfilled.^{xxxiii}

5. The Symmetry View revisited

Now that we have a better understanding of the way in which respect for political self-determination constrains the permissibility of humanitarian intervention, we can finally go back to

the question of whether we should accept the Asymmetry View. At first sight, it looks as if we should. To see this, compare the steps Egyptians need to go through before they may permissibly rebel against al-Sisi and those that, say, Britain, needs to go through before it may permissibly wage a war of humanitarian intervention to help them. It looks as if revolution can be justified in two steps: first, Egyptians need to assess that the traditional *jus ad bellum* principles are fulfilled (that the war is necessary, proportionate, has a reasonable chance of success etc.); second, they need to autonomously decide to revolt. At this stage, the conditions for the permissibility of revolution are fulfilled, but not the conditions for the permissibility of intervention. Egyptians would be permitted to rebel, but Britain would not be permitted to intervene yet. For intervention to be permissible a further step is necessary: Britain must secure the actual (present) consent of Egyptians to its intervention or, if that's not possible, respect the political self-determination of Egyptians in some of the other ways suggested above (by respecting their past, presumed or hypothetical consent).

This reasoning seems to vindicate the Asymmetry View, but it does so only to the extent that it relies on a fairly idealized understanding of revolutions, according to which revolutions happen when an entire population decides to come together as one and rise in arms against the regime. Walzer has this picture in mind in defending the Asymmetry View, but revolutions in real life have little resemblance to it. If we look at the dynamics through which revolutions normally unfold, we'll see that there is always some sort of revolutionary vanguard –the Bolsheviks, the Red Army, the 26th of July Movement, the Sandinistas–, which starts the hostilities while trying to gain the support of the rest of the population to overthrow the regime (Kalyvas 2006). Typically, revolutions are successful when the vanguard succeeds in mobilizing the rest of the population,

often resorting to non-conventional military strategies, so as to overcome the gap in military capacity with the regime (Buchanan 2013; Finlay 2015, chap. 10).^{xxxiv}

This is important because when the vanguard initiates the hostilities, it cannot be taken to be acting on behalf of the entire political community. The decision of the vanguard to bring down the regime cannot be plausibly considered an expression of the will of the political community, for the obvious reason that the rest of the political community had no role to play in it. While the decision might be taken to be an expression of the group agency of the vanguard, it cannot be taken to be an expression of political self-determination, because it is not informed by any of the interactions among the members of the political community required for a given course of action to constitute an expression of political self-determination.

Thus, in this respect, the position of the vanguard is similar to the position of a third party intervening from abroad. The vanguard is permitted to try and start a revolutionary war only provided that doing so is compatible with respecting the self-determination of the political community at large. The vanguard needs to be somehow authorized by the rest of the community by seeking its actual consent,^{xxxv} or when this is not possible, act in a way that is compatible with respect for political self-determination in virtue of the fact that the consent of the political community can be presumed or reasonably expected. Trying to start a revolutionary war without complying with this constraint is impermissible for the same reason why it would be impermissible for another state to militarily intervene. Indeed, it is only once rebels manage to fulfill this condition that their violence qualifies as a legitimate form of non-state violence, as opposed to mere criminality, which is crucially important, since only in the former case are they entitled to the moral and legal protections afforded to combatants.^{xxxvi}

Thus, once we operate with a more realistic understanding of how revolutions unfold, we should conclude that there is indeed symmetry between the conditions for the permissibility of revolution and the conditions for the permissibility of intervention. However, the symmetry is not determined, as the philosophical consensus suggests, by the fact that in both cases the permissibility of waging war is dependent exclusively on the fulfillment of the traditional *jus ad bellum* principles, without any regard for political self-determination. Quite the opposite, the symmetry is determined by the fact that respect for political self-determination constitutes an independent *jus ad bellum* constraint that applies both to wars of humanitarian intervention and to revolutionary wars. .^{xxxvii}

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ⁱ A further argument offered by Walzer against intervention in these cases is that even if an oppressive regime loses its legitimate authority over its own subjects, it retains a presumption of legitimacy against outsiders insofar as there is sufficient “fit” between the political community and its government. This argument is also problematic (Beitz 2009; Miller 2013), but I will not consider Walzer’s discussion of legitimacy here.

ⁱⁱ Surprisingly, Walzer does not explain *why* the existence of a self-determining political community is undermined in cases of supreme humanitarian emergency (i.e. “when a government turns savagely upon its own people”), but not in cases of ordinary oppression. I address this issue in Section 3.

ⁱⁱⁱ Two exceptions are Kutz 2016 and Finlay 2007, who have recently provided more nuanced defenses of Walzer’s position. Dobos 2011 has also defended the view, but instead of resting on the value of political self-determination, his arguments rest on pragmatic considerations (such as the fact that humanitarian intervention is typically costlier and less likely to succeed than revolutions) and on the special responsibility that states in a position to intervene have not to impose the costs of intervention on their own citizens. As such, Dobos’ view is unable to vindicate the thought that there are principled reasons why Egyptians would be wronged by a forced British intervention, as long as British citizens consented to it.

^{iv} For a sophisticated discussion of how the consent of individuals can affect intervention, see Parry 2017.

^v Since in the rest of the paper, I will typically focus on cases of ordinary oppression, I will omit this qualification unless necessary.

^{vi} This is why views that focus on the consent of the individual beneficiaries of the intervention (Tesón 2005, 93–94; Parry 2017) are inadequate as accounts of the constraints that political self-determination places on intervention. These views assume that the will of a political community is reducible to the mere aggregation of the will of its members. But as Christian List and Philip Pettit have convincingly argued, this assumption is mistaken. Methods of collective deliberation that rely on the mere aggregation of the inputs of individual members are not rational processes that can generate the sort of intentional attitudes required for group agency (List and Pettit 2011, 42–58).

^{vii} Thus, the Collective Intention Model and the Deliberative Model constitute two ways in which the Interactional Account can be articulated. I develop this account in Renzo 2018b, where I address the objection that in order to regard the agency of a political community as an expression of the agency of its members, it has to be the case either that each member can make a difference as to how the community acts or that the community acts in a way that aligns

with the personal preferences of each member. It is also worth stressing that while democratic procedures are a prominent mechanism through which political self-determination is exercised, political communities can be self-determining without necessarily being democratic (Altman and Wellman 2011, 25–31; Stiliz 2015).

^{viii} For its defense, see the texts cited on p. 6.

^{ix} Henceforth, I will use “human rights” to refer to these rights. While the right to self-determination is also a human right, the authors I am criticizing do not include it in the list of human rights that justify intervention.

^x This claim is compatible with acknowledging that colonialism constitutes a more serious violation of the right to political self-determination than forced humanitarian intervention, insofar as the former is an ongoing violation, whereas the latter is only temporary.

^{xi} On the idea that certain rights are conditional on our fulfilling particular responsibilities associated with them, see Deigh 1988.

^{xii} The first reason supports the broader claim that wrongdoers forfeit their right to have a say in any decisions made by the political community, whereas the second is best understood as supporting the narrower claim that they only forfeit their right to have a say in deciding whether intervention should take place.

^{xiii} Of course, my argument here can be accepted even by those who don’t believe it should be extended to justify the disenfranchisement of felons. I for one, don’t think it should.

^{xiv} Thus, in this case, we ought to consider the consent of some individuals the intervention intends to benefit. But only because these individuals have decided to give up their membership in the political community. The mistake of theories that focus exclusively on the consent of individuals is that they do so even when the individuals in question are instead to be treated as members of self-determining political communities making decisions together. (See footnote vi above.)

^{xv} The constraint is pro-tanto because the right to political self-determination is not absolute. In this respect, my view constitutes a middle ground between Walzer’s position, according to which the right seems to have conclusive force in cases of ordinary oppression, and the position of critics like Altman and Wellman, McMahan or Tesón according to which it has no force whatsoever.

^{xvi} Buchanan 2015 and Applbaum 2007 offer versions of this argument. I criticize Buchanan’s view in Renzo 2018a.

^{xvii} Obviously, intervention is permissible only provided that the other *jus ad bellum* principles are fulfilled (this qualification will be henceforth taken for granted), and we should be careful in concluding that they are.

Proportionality and reasonable chance of success, in particular, can be hard to establish, given the epistemic obstacles afflicting most international agents and the risk of escalation once the intervention starts (Miller 2003; Pattison 2010; Dobos 2011; van der Vossen 2017). But as historical examples show, there can be cases where all the *jus ad bellum* principles are fulfilled.

^{xviii} Raz calls them the “conditions of autonomy”, but he understands autonomy as an “ideal of self-creation” (Raz 1986, 370), and thus has in mind precisely what I am here calling “self-determination”.

^{xix} On the honouring/promoting distinction, see Pettit 1989.

^{xx} Strictly speaking, interference here would not even count as paternalistic, if we understand paternalism as a form of interference with someone’s agency *against their will* to make them better off (Dworkin 2017). When the conditions of political self-determination are undermined, there is no will which the intervention would go against.

^{xxi} We can now see why the existence of a self-determining political community is undermined in cases of supreme humanitarian emergency – a claim that, as we noticed, remains unexplained within Walzer’s account. Violations of human rights that rise to the level of supreme humanitarian emergency typically undermine the conditions for political self-determination in the way described above.

^{xxii} Buchanan 2015 runs the two together.

^{xxiii} An example is the 1960 *Treaty of Guarantee*, with which Cyprus authorized Greece, Turkey and the UK to militarily intervene in its territory, should it be necessary to restore the status quo established by the *Treaty*.

^{xxiv} I elaborate develop this argument in Renzo 2018a. (This paragraph draws on that text.)

^{xxv} For an account of the idea that the self-governing agency of political community can only exist across generations, see Rubenfeld 2001. For helpful discussions of how “past consent” can operate in the context of intervention, see Farer 1993; Buchanan and Keohane 2011. These papers explore the possibility of creating treaties whose members are authorized in advance to militarily intervene in each other’s territory, if this is necessary to stop serious injustice and the victim population is unable to consent to intervention. Thanks to Henry Shue for an insightful discussion of these treaties.

^{xxvi} None of the arguments to follow depend on the fact that this is the deliberative model employed in my examples. I pick this, instead of more complex forms of interaction, only to make the discussion more manageable.

^{xxvii} To reiterate, my aim here is not to downplay the importance of these epistemic obstacles, but rather to spell out how respect for political self-determination constrains intervention once we are sufficiently confident that the other *jus ad bellum* principles are fulfilled.

^{xxviii} My understanding of presumed consent is thus different from the one offered by Fabre 2012 (155) and Lazar 2016 (5). I use presumed consent to refer to situations in which actual consent has been given or withdrawn, but we don't know which of the two is the case. Fabre and Lazar use the notion to refer to cases in which consent has not been given but would be given under some idealized conditions. Their understanding thus seems to coincide with the traditional notion of hypothetical consent.

^{xxix} https://www.icrc.org/eng/assets/files/other/icrc_002_0758.pdf, p. iii. Another example is the *Public Opinion Survey* commissioned by the United Nations in Liberia to assess how the Liberians viewed the 2003 peacekeeping mission (Krasno 2006; see Pattison 2010, 140–41).

^{xxx} Thanks to Tom Dougherty for a helpful discussion of this point.

^{xxxi} Well known examples include the Soviet intervention in Czechoslovakia in 1968 and the American intervention in Congo in 1964.

^{xxxii} Though the fact that the risk of mistakes is higher in the case of presumed or hypothetical consent should also be factored in our deliberation. At any rate, it's worth stressing that the risk of abusing the permission to intervene is even higher within the view defended by Altman and Wellman, McMahan or Tesón than within my view, since the former doesn't make intervention conditional on respecting political self-determination to begin with.

^{xxxiii} The UN Security Council is currently the institution best placed to perform this role, but given the danger of inaction generated by the veto power of some of its members, alternatives should be explored (Buchanan and Keohane 2011; Shue 2016, 159–65).

^{xxxiv} Of course, this is possible only to the extent that there is already widespread disaffection in the population.

^{xxxv} See Buchanan 2013 for an interesting discussion of the risks associated with consent being the product of coercion or manipulation in this context.

^{xxxvi} Insightful discussions of how the notion of authorization operates in this context are Finlay 2010; Lazar 2016; Benbaji 2018. (Flikschuh 2008)

See also, (Smith 2008)

^{xxxvii} This paper was originally written for the 2015 ELAC Conference at the Stockholm Centre for the Ethics of War and Peace, and subsequently presented at Oxford, King's College London, Stockholm, UCL, Edinburgh, Manchester, Torquato di Tella, Catania, Oslo, the 2017 SIFA Conference in Pisa and the 2017 Pacific Conference of the American Philosophical Association in Seattle. Thanks to these audiences, as well as to Allen Buchanan, Luigi Caranti, Andreas Carlsson, Alejandro Chehtman, Tom Dougherty, Cécile Fabre, Helen Frowe, Jeff McMahan, Kieran Oberman, Jonathan Parry, Avia Pasternak, Jon Quong, David Rodin, Henry Shue, Victor Tadros, Fernando Tesón, Laura Valentini and Jennifer Welsh for very helpful comments and stimulating discussions. I am particularly grateful to two referees for this journal, whose detailed feedback was enormously beneficial.