A Responsibility for the Symptom or the Cause?

*Jus ante Bellum* and Reevaluating the Cosmopolitan Approach to Humanitarian Intervention[[1]](#footnote-1)

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**Introduction**

Cosmopolitans often argue that the international community has a humanitarian responsibility to militarily intervene in order to protect vulnerable individuals from violent threats and to pursue the establishment of a condition of cosmopolitan justice based on the notion of a ‘global rule of law.’ The purpose of this paper is to argue that many of these cosmopolitan claims are incomplete and untenable on cosmopolitan grounds because they ignore the systemic and chronic structural factors that underwrite the root causes of these humanitarian threats. By way of examining cosmopolitan arguments for humanitarian military intervention and how systemic problems are further ignored in the Responsibility to Protect (RtP) and other key international humanitarian legal tenets, this paper suggests that many contemporary cosmopolitan arguments are guilty of focusing too narrowly on justifying a responsibility to respond to the symptoms of crisis versus demanding a similarly robust justification for a responsibility to alleviate persistent structural causes. Although this paper recognizes that immediate principles of humanitarian intervention will at times be necessary, the paper seeks to draw attention to what we are calling principles of *Jus ante Bellum* (right before war) and to stress that current cosmopolitan arguments about humanitarian intervention will remain insufficient without the incorporation of robust principles of distributive global justice which can provide secure foundations for a more thoroughgoing cosmopolitan condition of public right.

To make our argument for why principles of *Jus ante Bellum* are crucial to debates about humanitarian military intervention, the paper is divided into four sections. The first section will briefly survey three moral arguments generally employed by cosmopolitans when justifying the use of humanitarian military intervention. This section will also highlight three persistently problematic questions that have remained largely unresolved within the cosmopolitan literature. From this the second section explores three current themes within cosmopolitan debates about humanitarian intervention and how these themes intersect and potentially support our argument for the incorporation of principles of *Jus ante Bellum*. The third section seeks to illustrate that the lack of discussion about incorporating principles of *Jus ante Bellum* in debates about humanitarian military intervention is not simply confined to the realm of academia, but that *Jus ante Bellum* principles relate directly to current preventative shortcomings within the RtP and other international laws concerning the use of force. By exploring the language and practice of the RtP, it is possible to illustrate why it remains insufficient and morally malnourished on cosmopolitan grounds. Lastly, section four will draw out three key implications of our argument for cosmopolitan thought more generally and how these relate to the practice of humanitarian military intervention. By exploring these implications, it will be argued that incorporating *Jus ante Bellum* principles into the cosmopolitan debate about the use of force will add greater consistency, legitimacy and focus to cosmopolitan humanitarian interventions and how our understanding of ‘intervention’ can better correspond to broader cosmopolitan ambitions.

**I. Cosmopolitan Humanitarian Intervention and Three Persistent Questions**

When surveying the cosmopolitan literature it becomes evident that the vast majority of cosmopolitans advocate the use of humanitarian military intervention as a means to respond to mass atrocity crimes or serious human rights violations.[[2]](#footnote-2) In arguing for this form of humanitarian intervention most cosmopolitans claim that there is not only a right to intervene in order to save distant strangers, but that those who are in a position to effectively respond also have duty to do so. The moral foundations underpinning this duty relate to three corresponding cosmopolitan principles.

First, most cosmopolitans, if not all, sustain a deontological commitment that suggests that all human beings have an intrinsic human worth and dignity that should not be violated. In other words, and in opposition to consequentialism, human beings matter equally, and because humans have an equal intrinsic worth, it is not morally permissible to violate this worth, and furthermore, since this worth is held equally between all human beings, we have duties to come to the aid of other human beings so long as it does not at the same time greatly threaten our own ability to live lives worthy of what it means to be a human being. As all cosmopolitans argue, human dignity is universal in scope, so these duties apply globally to every human regardless of where they happen to reside and despite their cultural and political associations. Therefore, in terms of humanitarian intervention, since humans are the primary unit of equal moral concern, and since mass human rights violations threaten the basic dignity of other human beings (and/or ourselves), we have a moral duty to intervene in order to secure the moral worth of these distant strangers as long as we can do so without greatly surrendering our ability to secure our own rights during this response.

Second, most cosmopolitans, if not all, argue that humanitarian intervention is a justified mechanism to respond to large-scale injustices associated with human rights violations because when properly constituted, the intervention acts as a means to establish a condition of cosmopolitan public right. In this regard, cosmopolitans often also see humanitarian intervention as a method of law enforcement and policing by the international community[[3]](#footnote-3) and / or as representing the fulfillment of a Kantian duty to transition *provisional rights* in a lawless international state of nature to a condition of *perfect rights* that are grounded in a more thoroughgoing condition of cosmopolitan law and constitutionalization.[[4]](#footnote-4) As Catherine Lu summarizes nicely, when a state ‘fails to provide basic goods such as security, subsistence and justice within their borders, and when the domestic accountability systems are inadequate or incompetent, a cosmopolitan view of global order obligates the society of states, as well as the larger global civil society, to call sovereign power to account, and to intervene to alleviate the human suffering caused by the neglect, breakdown or abuse of sovereign power.’[[5]](#footnote-5) In this respect, intervention (in whatever form) is seen as a juristic mechanism, which is grounded on some aforementioned deontological notion of human worth, that can bring unstable political and legal orders in-line with cosmopolitan political aspirations and values.

Third, most cosmopolitans, if not all, suggest that humanitarian intervention is best understood as an ethics of peace versus understood in its traditional sense, which has historically looked at humanitarian intervention as a sub-field of ‘war studies.’[[6]](#footnote-6) *Pace* Kant, many cosmopolitans, international liberals and English School Solidarists argue that peace building is the ultimate end of any use of intervention (military or not) and therefore it is justified when used toward establishing a more lasting peaceful condition. As illustrated plainly in Kant’s title ‘Perpetual Peace,’ the ultimate aim of the cosmopolitan project is ‘not to terminate one war… [but] to end all wars’[[7]](#footnote-7) and as long as humanitarian intervention is directed towards this ‘noble end of publicity’ it can be understood as representing one of many legitimate mechanisms to secure a peaceful condition.

Nevertheless, despite an almost unanimous belief between cosmopolitans in the use of humanitarian intervention as a means to address gross injustices and the violation of human rights, there has been a relatively limited attempt to respond to the more problematic questions associated with the use of force often associated with intervention and the underlying cosmopolitan principles that justify its use. As Cecil Fabre has recently pointed out in her more developed account of *Cosmopolitan War*, most cosmopolitan theorists ‘overlook the serious normative difficulties raised by military interventions which necessitate acts of killing’ and as a result ‘cosmopolitans… would do well to start thinking more deeply than they have done so far about war.’[[8]](#footnote-8)

The problem is that by not sufficiently addressing these questions, it renders cosmopolitanism as an underdeveloped theory of global cohabitation, which either cannot respond to the complexities of humanitarian military intervention or is unwilling to ‘own up’ to these unresolved tensions. In simple terms, the problems are obvious, but remain unsettled, and the tensions stem from the fact that cosmopolitans strongly advocate humanitarian military intervention and ‘cosmopolitan law enforcement’ as a means to save distant strangers, yet at the same time fail to provide any thoroughgoing moral extrapolation for exactly why there are clear duties to intervene and why these duties can be consistent with the underwriting deontological principles of cosmopolitanism. In thinking about this it is possible to find at least three questions that require a more thoroughgoing response by cosmopolitans who advocate a duty to militarily intervene on humanitarian grounds.

The first question relates to the nature of deontological arguments themselves and an inherent tension that becomes manifest when innocent life is destroyed as a result of military operations.[[9]](#footnote-9) The tension develops because in modern warfare it is highly foreseeable, as well as nearly epistemically assured, that innocent people will die as a result of military intervention. Whereas strict utilitarian accounts can better justify any ‘collateral damage’ on the basis of meeting the terms of the ‘proportionality’ calculation and by fulfilling the requirements of ‘double effect,’ any cosmopolitan deontological approach that strictly posits an intrinsic right over the consequential good will undoubtedly face the dilemma of demanding categorical duties to protect the dignity and rights of those beyond our borders while at the same time having to justify why in some cases those rights can be suspended. The problem being that if the deontological position suggests that ‘the right’ of human dignity should trump ‘the good’, then how can this right be suspended for the protection of the greater good? This is not to say that cosmopolitanism cannot reconcile this tension, but it is important to point out that their efforts to do so have so far been minimal and in our opinion incomplete.[[10]](#footnote-10)

The second question relates directly to the above, namely, if cosmopolitans argue for the deontological worth of human beings, and if military intervention will inevitably kill human beings (both innocent and belligerent), then can the cosmopolitan position only be consistent when adopting a pacifist position where any foreseeable destruction of human life remains absolutely impermissible. In this case, like the case above, the cosmopolitan has to defend why their position promotes peace and the deontological worth of human beings while at the same time advocating war and the known destruction of life as a means to bring about a cosmopolitan condition of peace.[[11]](#footnote-11) Although these questions lie at the heart of just war theory and are the focus of many debates within the literature on just war, cosmopolitans themselves have largely forgone any direct dealing with this difficult question.[[12]](#footnote-12)

The third question faced by cosmopolitanism, which is the question we are focusing on in this paper, relates to cosmopolitanism’s tight relationship to arguments for distributive global justice and how this body of work should link to cosmopolitan arguments for humanitarian military intervention. Specifically, when surveying the literature, it is unclear whether humanitarian military intervention simply represents a form of immediate criminal justice or whether the idea of ‘intervention’ is also to be fully incorporated into broader debates about distributive justice. Although Caney does suggest that ‘an adequate normative account of global distributive justice cannot be divorced from an empirical account of war,’ he discusses this only in a footnote,[[13]](#footnote-13) and it is unclear whether he believes the reverse relationship also holds, in that an adequate normative account of war cannot be divorced from an empirical account of distributive global justice and what we are suggesting are corresponding duties of *Jus ante Bellum*. This absence is indicative of the cosmopolitan literature more broadly, since discussions about cosmopolitan humanitarian military intervention have only focused on the questions of ‘when, who and how’ (*Jus ad Bellum*, *Jus in Bello* and *Jus post Bellum*) without much reflection on the structural reasons ‘why’ the conditions for intervention persist in the first place (*Jus ante Bellum*). *[[14]](#footnote-14)* In other words, current cosmopolitans focus mainly, if not exclusively, on the symptoms and aftermath of conflict rather than providing any detailed discussion about the underwriting causes of structural violence and how these relate to the demands of cosmopolitan distributive justice. As a partial response to this particular question (leaving the first two questions above aside), we wish to argue two main points in relation to this particular shortcoming. First, that any consistent account of cosmopolitan humanitarian intervention must include *Jus ante Bellum* principles of distributive global justice in order for it to be fully consistent with broader cosmopolitan aims and, second, that this is not simply an academic mental exercise, since the failure to address underlying structural causes associated with large scale human rights violations is a clear weakness of the RtP, which has left it impoverished as both a normative and practical global constitutional device.

**II. Blurring the Distinction Between Cosmopolitan Criminal Justice and Distributive Justice**

There are three key intersections where what we are calling *Jus ante Bellum* overlaps with contemporary cosmopolitan discussions about humanitarian military intervention. However, before presenting these potential links, it is important to be clear about what we mean by *Jus ante Bellum*. As is typical in just war theory, Latin terms are often used to demark the various stages of war and the ‘just’ principles that must be satisfied before resorting to war (*Jus ad Bellum* – the right to war), when conducting war (*Jus in Bello* – right in war), and after the war (*Jus post Bellum* – right after war). In our use of *Jus ante Bellum* (right before war) we are suggesting two denotations.

The first, in line with Kant, is to understand the word right as having two corresponding meanings. One that refers to having an entitlement to act in the defense of others (or what Fabre calls Hohfeldian transfer of rights) and another that refers to the underlying conditions of *public right* that must exist in order to fulfill *perfect rights* and/or the conditions of *publicity* necessary to move *imperfect rights* to *perfect rights*. In this last case, we are arguing that having the entitlement to act in defense of others must publically correspond to duties to other conditions necessary for a condition of public right, in this case, a robust commitment to distributive principles that seek to eliminate gross inequalities that both foreseeably lead to large-scale humanitarian crisis.

The second denotation relates directly to the use of force that follows from the first understanding outlined above. This suggests that if cosmopolitans are correct to claim that there is a strong duty to kill in order to save victims of direct violence then there must also be a strong duty to prevent conflict from happening in the first place and that the fulfillment of this duty will require additionally robust commitments to global distributive justice. The logic underpinning this suggests that if ‘helping under a cosmopolitan view means providing the people affected with the means to exercise their own moral and social agency,’[[15]](#footnote-15) then this principle of assistance should surely also hold in relation to structural causes that make humanitarian military intervention necessary in the first place. As Newman reflects, if human security and dignity is the ultimate goal of intervention, then this ‘suggests a duty to eradicate the conditions that create insecurity. Since so many of these emanate from extreme poverty… it follows that poverty reduction is also an international duty.’[[16]](#footnote-16) In this regard, *Jus ante Bellum* proposes that if we have duties to kill in order to save distant strangers from violence, then we also have duties to alleviate the suffering of distant strangers from structural violence that has a significant probability to lead to large-scale crisis and conflict. As a result, not only should cosmopolitans care about immediate crisis, but more importantly, cosmopolitans need to be more explicit about the role humanitarian intervention (both non-militarily and militarily, but especially militarily) plays within a broadened cosmopolitan vision (and vice versa) - morally, institutionally, culturally and within the cosmopolitanization of international law.

One potential criticism of our focus on *Jus ante Bellum* is to suggest that the links between global structural socioeconomic conditions and humanitarian crisis are spurious and therefore lack the ‘relational conditions’ that any principles of cosmopolitan distributive justice will necessarily require.[[17]](#footnote-17) As many critics of cosmopolitanism suggest, the global level does not empirically display the same level of ‘basic structures’ required for duties of justice to apply and therefore it is far more appropriate to discuss humanitarian interventions as humanitarian assistance that requires a lower threshold of duties than justice would demand.

In response, even if we agreed that principles of global justice only apply in relational conditions (which we don’t), this view seemingly ignores an increasing body of evidence that suggests that conditions of economic hardship and global poverty significantly increase the likelihood of conflict and mass killing. For example, Fearson and Laitin have shown that lower per capita income increases the likelihood of civil war. Similarly, Suzuki and Krause found that high levels of economic development reduced that likelihood. Furthermore, it is known that conditions of poverty increase the death rates associated with humanitarian violence as much as a factor of fifty. In addition, there is also now a considerable body of empirical evidence to suggest strong links between current global economic systems and the perpetuation of abject poverty, and since poverty is a key driver of organized and disorganized violence, it would seem that there are *prima facie* relational global conditions where duties of *Jus ante Bellum* can be reasonably said to apply.

A second criticism is to suggest that what we are referring to as *Jus ante Bellum* is actually already covered within contemporary discussions regarding a justified war as ‘an option of last resort’ under the principles of *Jus ad Bellum*. In this way, the argument is that all other methods of avoiding conflict would need to be exhausted and that various distributive measures we would argue for could / would be part of that effort.

However, it is reasonable to respond to this by suggesting that this is not what just war theorists are actually saying and that when surveying the literature it is plain to see that the ‘option of last resort’ is directly in reference to an already escalated humanitarian crisis and that the parameters for when to start measuring when a response is ‘of last resort’ is already relating to a situation well into an existing cycle of violence. As a result, the demands of *Jus ante Bellum* are more forward looking than anything seemingly involved with *Jus ad Bellum* since we seek to expose deeper structural causes. As a result of this dissimilarity, we would suggest that, *prima facie*, a categorical difference between the two exists.

Cosmopolitans themselves could make a third critique, by claiming that what we are calling principles of *Jus ante Bellum* are already implicit within any cosmopolitan approach to humanitarian intervention. In other words, a cosmopolitan could simply suggest that a commitment to global distributive justice is given and that the advocacy for humanitarian intervention should be assumed as being couched within broader schemes of cosmopolitan justice.

However, there are potentially two responses that can be made here. The first is to highlight that the connection between humanitarian military intervention and cosmopolitan justice is too important to leave as an implied relationship and that by failing to fully embed humanitarian intervention into broader schemes of cosmopolitan justice it creates greater ambiguities and misperceptions of the cosmopolitan project as a whole. These misperceptions can be witnessed in many of the reactions to cosmopolitanism from more critical voices who see cosmopolitan intervention (and therefore cosmopolitanism more generally) as a potential form of Western cultural imperialism,[[18]](#footnote-18) as a form of bio-politics masked as humanism,[[19]](#footnote-19) and/or as a form of capitalistic exploitation.[[20]](#footnote-20) As a result, if nothing else, then the distinction of *Jus ante Bellum* seeks to try and make the connection between cosmopolitan justice and cosmopolitan criminal justice via intervention more explicit, not only for cosmopolitans themselves, but also for those critical of cosmopolitanism as a political theory in general.

From this, a second response is to point out that one reason why cosmopolitans have failed to be explicit about the relationship between global justice and humanitarian intervention is because all too often they unnecessarily differentiate ideal and non-ideal theory as inhabiting different intellectual realms (a la Rawls). For example, the very first sentence of Simon Caney’s chapter on ‘Just War’ in *Justice Beyond Borders* claims that ‘thus far, this book has focused on ideal theory [Global Justice]…. [now] ‘I want to move from ideal theory to non-ideal theory…. [because] a complete analysis must address what principles should apply when injustices have been committed.’[[21]](#footnote-21) The problem here is that this seemingly ignores the existence of a reverse relationship and as a result suggests that the structural injustices that have led to criminal injustices (crisis) are not of immediate or equal importance and can be factored in separately. Furthermore, it is not exactly clear why responding to underlying structural drivers of injustice and the structural violence associated with the causes of humanitarian intervention is the sole purview of ideal theory whereas exploring just war principles is somehow non-ideally more ‘real.’ Surely they are both very ‘real’ factors involved with crisis formation and relate to the empirical conditions from which normative theory must necessarily respond. Lastly, the usual methodological argument for making a distinction between one particular intellectual exercise as being more ‘non-ideal’ versus ‘ideal’ becomes increasingly absurd under further scrutiny. For example, given the high number of abstract hypotheticals used throughout just war analysis as well as its high reliance on metaphysics to grounding various right claims which justify particular actions and restraints, it is not perfectly clear where the realm of ideal theory starts and where it finishes. As a result, our argument here is not that cosmopolitans have categorically ‘got it wrong,’ but to highlight that cosmopolitans are guilty of focusing too narrowly on justifying a responsibility to respond to the symptoms of crisis (as a non-ideal priority) versus demanding a similarly robust justification for a responsibility to alleviate persistent structural causes (as part of a larger ideal priority). If this is true, and if cosmopolitanism is going to provide a more thoroughgoing normative theory for global cohabitation, then this lacuna will have to be addressed more rigorously than done thus far.

Yet to move this forward, and as mentioned above, we think there are at least three potential links where principles of *Jus ante Bellum* overlap with contemporary cosmopolitan discussions about humanitarian military intervention. First, under the banner of *Jus ad Bellum* there is a requirement that the use of force is only justified when it is waged with the right intentions. Traditional justifications have usually claimed that a right intention can be to stop violence in order to establish a peace-keeping mission with the long-term aim of brokering a legitimate reformed government made up of the warring factions, or to completely remove an unjust regime for the establishment of an externally imposed ‘just’ regime, and / or to simply save distant strangers from immediate mass killing while leaving any long-term institutional solutions for debate during post-conflict reconstruction. Yet, underpinning this just war principle, particularly in relation to the justification for humanitarian military intervention, is the moral argument for the protection of human beings from harm. As mentioned above, in the case of cosmopolitan humanitarian military intervention, the grounding for the protection of individuals stems from their inherent moral worth and the equal dignity we owe them as fellow human beings. If this is the case, as all cosmopolitans suggest, then the right intention is not simply to stop the immediate violence (although this is certainly a principle of first intent), but to also establish a global condition of public right that allows ‘the greatest possible human freedom in accordance with laws which ensure that the freedom of each can coexist with the freedom of all the others.’[[22]](#footnote-22) In this regard, it would seem that for the cosmopolitan, a condition of ‘just intention’ must take into account the ‘just aims’ associated with those intentions and how those aim correspond against deeper structural socioeconomic conditions that threaten to perpetuate violence. This is not just in regards to cases of immediate crisis, but also in relation to regions where there is a high potential for future crisis. Therefore, it would seem that for the cosmopolitan having a ‘just intention’ is coupled with also having a ‘just aim’ that must necessarily go beyond the basic principles of *Jus post Bellum* as a way to incorporate cosmopolitan principles of distributive justice. If incorporated properly into a cosmopolitan humanitarian approach, this would include such activities as altering unjust economic conditions, curbing arms sales to conflict regimes,[[23]](#footnote-23) limiting cash transfers to warring parties,[[24]](#footnote-24) reforming unequal market conditions and trade relations,[[25]](#footnote-25) addressing systems of capital flight and strengthening poverty reduction efforts, etc.[[26]](#footnote-26) Although detailed here only briefly, the implications are considerable. Namely, ‘intention’ is linked to ‘aim’ and therefore any consistent cosmopolitan position needs to make this link between their intention to save strangers and their concern for the broader conditions in which these strangers require saving in the first place, especially as measured against the bar of cosmopolitan justice.

Another potential connection between *Jus ante Bellum* and cosmopolitan humanitarian intervention relates to questions regarding who is responsible to intervene. Specifically, as Fabre has correctly pointed out in her book *Cosmopolitan War,* ‘there is another argument for the duty to intervene as grounded in considerations of reparative justice, whereby the IP [intervening party] is under a duty because it is in part responsible for the predicament in which TP’s [target parties] find themselves.’[[27]](#footnote-27) In other words, what Fabre is suggesting is that ‘whether a potential intervener is partly responsible for the rights violations to which the intervention is a response might be relevant to the assignment of the duty to intervene.’[[28]](#footnote-28) In exploring this assignment of responsibility, Fabre uses the example of Belgium’s potential role in causing the structural causes that ‘encouraged and fostered a climate of ethnic division and hatred’ during its colonial mandate in Rwanda and how France furthered calamity by supplying weapons to the massacring parties right up to, as well as during, the Rwanda genocide. As Fabre states, ‘in such cases it might stand to reason that France had a primary reason to intervene.’ Furthermore, in her own estimation regarding when such an intervention could be deemed successful, Fabre claims that ‘humanitarian war will not successfully fulfill its just cause if it merely stops human rights violations in the short term: instead, it must secure the conditions under which the rights of its beneficiaries are secure in the long term.’[[29]](#footnote-29) Nevertheless, this begs two questions. First, what if the responsibility for crisis is more related to structural inequalities and economic conditions built into the existing global order? And what if those structural conditions are in some sense understood to exist and to be perpetuated by certain powerful global actors? If responsibility is should be assigned to those who protract these underlying causes, then under many existing arguments of global justice, many Western countries that have benefited greatly from current unequal socioeconomic structures that underwrite humanitarian crisis would therefore be responsible to alleviate the effects of crisis. Secondly, if Fabre is right that successful intervention is related to long term security, and if underlying global socioeconomic conditions can be shown to have played a significant role in causing humanitarian crisis (which we think they can), then the question needs to be asked about the yardstick used to measure success and the key role that cosmopolitan theories of global justice should necessarily play in determining the long term aims and successes of humanitarian intervention. In this way, what we are calling *Jus ante Bellum* plays two important normative roles. One that gives us a heuristic tool to help think about how to assign responsibility as well as another tool that helps us reflect more clearly about what conditions need to exist (or have existed which shouldn’t) in order to alleviate the underlying structural causes that help to perpetuate or escalate humanitarian violence in the first place.

Third, the idea of *Jus ante Bellum* has potential connection to a number of conditions under the banners of *Jus ad Bellum* and *Jus post Bellum*. Although we cannot develop these in more detail here, on the face of it, there are seemingly immediate connections and implications to be drawn out in terms of determining whether or not an intervention will ‘have a reasonable chance of success,’ in relation to the ‘good outweighing the harms caused by military intervention,’ and in relation to the interveners ‘responsibility to help reconstruct the vanquished country/countries.’ In all of these cases, it would seem that cosmopolitans should have something meaningful to say in relation to what the demands of cosmopolitan justice requires of these just war principles. That said, at the moment, of the few cosmopolitans who do engage with just war theory and humanitarian military intervention, the focus has largely been to justify why a cosmopolitan can endorse military intervention, in what cases an intervention is justified on cosmopolitan grounds, or with implanting certain cosmopolitan values into existing just war clauses. What is missing, and what we are arguing for here, is a revamped approach to cosmopolitan humanitarian intervention that fully integrates it within broader cosmopolitan concerns for global distributive justice. Otherwise, without this more thoroughgoing account, it is our belief that cosmopolitanism will remain largely an ‘add on’ to the current debates without doing much to alter existing structures of global constitutionalization, crisis prevention, or the human suffering that is supposedly at the heart of why we have moral duties to intervene in the first place. Furthermore, a concern for what we are calling *Jus ante Bellum* is not purely an academic exercise because it is germane to contemporary international law debate as they relate to the use of force and therefore have implications for how we think about the responsibility to protect distant strangers and what the demands of ‘prevention, reaction and rebuilding’ within the RtP should mean for cosmopolitans. It is with examining the RtP from this cosmopolitan perspective that we now turn our attention.

**III. The Responsibility to Protect as a Response to Symptoms not Causes**

So far the argument has been that cosmopolitans have been too narrowly focused on the symptoms of crisis without fully integrating cosmopolitan principles of distributive justice that would help to expose the underlying causes that perpetuate humanitarian crisis in the first place. Nonetheless, as suggested in the last section, this concern for *Jus ante Bellum* is also relevant to the ways we think about contemporary tenets of international law as well as the persistent debates attached to the international society’s responsibility to protect distant strangers. Consequently, the aim of this section is to illustrate that the tensions that we suggest are engrained within the cosmopolitan treatment of humanitarian military intervention is also present in many aspects of the RtP and other related tenets of international law relating to the use of force.

In 2000, the International Commission on Intervention and State Sovereignty (ICISS) was convened to consult with NGOs, academics and policy think tanks in order to consider ‘how to move from polemics – and often paralysis – to action’.[[30]](#footnote-30) In 2001 it produced its report, the ‘Responsibility to Protect’ (RtP). The RtP outlines the changing international context leading up to the production of the report in a section entitled ‘Human Rights and Emerging Practice’,[[31]](#footnote-31) where the importance of the individual is evidenced by the increasing number of human rights treaties since the end of WW2 (including the Genocide Convention, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention Against Torture and the Convention on the Elimination of all forms of Discrimination Against Women),[[32]](#footnote-32) but notes that ‘millions of human beings remain at the mercy of civil wars, insurgencies, state repression and state collapse’.[[33]](#footnote-33) The heart of the RtP doctrine is a challenge to traditional conceptions of sovereignty as the exclusive control over a state’s territory and a re-conception of the idea of sovereignty as responsibility towards a state’s population.[[34]](#footnote-34) The primary responsibility for a people lies with the government of that state, but if the:

‘Population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unable or unwilling to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.’[[35]](#footnote-35)

The idea of the responsibility to protect was endorsed by the General Assembly at the UN’s 2005 World Summit[[36]](#footnote-36) where, as Nicolas Wheeler says, ‘190 states committed themselves to the principle that the rule of non-intervention was not sacrosanct’ in cases such as genocide.[[37]](#footnote-37) It was claimed that, had it existed at the time, the doctrine could have prevented the tragedies of Rwanda and Srebrenica.[[38]](#footnote-38) It should be noted that the General Assembly’s World Summit Outcome Document did not adopt the entire text of the ICISS’ report – paragraph 138 of the Outcome Document noted each state’s responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity (not a new international legal obligation) and paragraph 139 refers to the responsibility of the international community, using peaceful means in accordance with Chapters VI and VIII of the UN Charter, to help protect populations.[[39]](#footnote-39) This paragraph also referred to the international community’s willingness to take collective action in accordance with Chapter VII of the Charter should a state ‘manifestly fail’ to protect its population. In relation to the international community’s willingness to use force in carrying out its responsibility to protect, the paragraph asked the General Assembly to continue to consider the responsibility to protect populations, ‘bearing in mind the principles of the Charter and international law’.[[40]](#footnote-40) This is a somewhat cautious approach to the detailed content of the full RtP report. Nonetheless, although the Security Council’s powers to authorise intervention still rest in Chapter VII’s conception of threats to international peace and security, the RtP can be seen as an endorsement of the Council’s widening tendency to refer to human rights abuses in authorising Chapter VII actions – recent examples include the Security Council resolutions relating to Libya, which referred to the Gaddafi Government’s responsibility to protect the Libyan population when authorising NATO action under Chapter VII of the Charter.[[41]](#footnote-41) As such, it is often argued that the ideas within RtP are gaining increasing legitimacy within international society, even in the ‘watered-down’ form accepted by the General Assembly rather than the full ICISS report.

With its reconception of sovereignty as responsibility, the RtP report was not intended to be a mere restatement of the humanitarian intervention debate. It thus widened its focus from military reaction to crises, to include the prevention of crises and post-conflict rebuilding; and it also noted that the responsibility of the international community to protect individuals when their state fails to do so can be fulfilled using economic, political and legal, as well as military, means.[[42]](#footnote-42) In relation to the primary responsibility of the state for its people, the understanding of how best to fulfil this requirement of responsible sovereignty relies on the fundamental tenets of the cosmopolitan arguments put forth by Fabre and others, in which ‘a political regime has a claim to govern over a given territory only if it respects and protects the fundamental rights of its individual members,’ if it fails to do so, then ‘a cosmopolitan ethics of assistance yield a duty to provide military help to those in need.’[[43]](#footnote-43) The report expresses the view that it is ‘first and foremost the responsibility of sovereign states’ to prevent harm to their people and that a ‘firm national commitment to ensuring fair treatment and fair opportunities for all citizens provides a solid basis for conflict prevention,’[[44]](#footnote-44) although the international community can help local efforts to identify triggers of conflict.[[45]](#footnote-45)

In the event of national failure to ensure fair treatment and opportunities, the international community’s responsibility to react is triggered in relation to the developing crisis. In line with principles of *Jus ad Bellum*, this reaction can encompass economic sanctions and diplomacy and the report stresses the importance of non-military reactions to crises (including, for example, the role of the International Monetary Fund and World Bank in conflict prevention efforts through good governance campaigns[[46]](#footnote-46)); although it also acknowledges that sanctions can be a blunt instrument and, as such, it may be necessary to consider military reaction.[[47]](#footnote-47) Once a state has broken down or abdicated its responsibility to protect its population, the international community must take on the responsibility to rebuild with an emphasis on ‘local ownership’ in building a durable peace based on good governance.[[48]](#footnote-48) In line with principles of *Jus post Bellum*, the international community should undertake long-term financial and physical commitments, including disarmament and rehabilitation of armed forces, criminal justice and the return of refugees.[[49]](#footnote-49) Particularly in terms of prevention and rebuilding, the RtP understands the domestic society to be best suited to carrying out its responsibility towards its citizens – good governance, demonstrated by democratic representation, fair treatment and fair opportunities for individuals.

In addition to ‘direct’ causes of armed conflict the report does give some acknowledgement to the elements associated with what we are labelling *Jus ante Bellum* by outlining some ‘root’ causes of conflict to be ‘poverty, political repression, and uneven distribution of resources’ which can be remedied by promotion of human rights, minority rights and representative political arrangements.[[50]](#footnote-50) Although the RtP does place ‘prevention’ within a three tiered commitment to ‘Prevention, Reaction and Rebuilding,’ resolving these ‘root’ causes is still a matter for domestic states to resolve and it is not at all clear what responsibility external states have toward rectifying their role in perpetuating these root causes. In other words, like most cosmopolitans writing on intervention, the RtP does not sufficiently address the global structural causes that have played a significant part in creating the conditions associated with conflict escalation. As has been noted by scholars of the RtP, ‘the preventive dimension… has been consistently side-lined’[[51]](#footnote-51) and was seemingly only ‘tagged on in order to make military intervention more palatable.’[[52]](#footnote-52)

As a result, the RtP as it is currently formulated suffers from several shortcomings, which are also mirrored in the cosmopolitan approach to humanitarian military intervention as discussed in Section Two. As we’ve argued, considerations of *Jus ante Bellum* are not only a necessary component to any cosmopolitan approach to humanitarian intervention, but are also an important factor to take seriously in current debates surrounding RtP.

One immediate problem with the RtPs approach to humanitarian intervention is that it views the state as the only appropriate entity that can deliver social justice as well as the only source responsible for the underlying problems associated with humanitarian crisis. As a result, this vision fails to address the potential role of the international community in creating conditions of injustice (whether resulting in crises or not) and dismisses the importance of the global socioeconomic realm in achieving justice for individuals. This has the effect of presenting the ‘international community’ as striving to achieve criminal justice for individuals across the globe rather than as being implicated in creating existing global conditions of poverty and inequality (whether they are related to particular crises of civil and political rights abuses or not). Given the potential for global socioeconomic inequality to be related to disorder, this impoverished conception of global justice has consequences for order as well as the practice of humanitarian military intervention.

A second problem with the RtP is that it poses the question of intervention as simply one of ‘doing something or doing nothing’[[53]](#footnote-53) – of being in favour of humanitarian military intervention or of being lumped with ‘the defiant, the indolent, the miscreant’[[54]](#footnote-54) who subscribe to an unreasonable theory of ethics which permits wholesale slaughter.[[55]](#footnote-55) By framing intervention in zero-sum terms it makes it hard to disagree with those who advocate a right of humanitarian intervention in most circumstances. As Glennon says, ‘[a] child saved from ethnic cleansing in Kosovo by NATO's intervention is no less alive because the intervention was impromptu rather than part of a formal [legal] system.’[[56]](#footnote-56) Yet, this debate poses the issue of humanitarian intervention in terms of the opposition between the rules of international law on non-intervention and non-use of force[[57]](#footnote-57) versus the failure of some governments to obey international human rights norms towards their own citizens.[[58]](#footnote-58) This necessarily views the responsibility for human rights abuses as lying with the particular state in which the violence occurs. Whilst claiming to overcome the deadlock between human rights and non-intervention, the RtP nonetheless echoes this sentiment in its association of the main problems faced by vulnerable populations – civil wars, repression and state collapse – with a national (not international) governmental commitment to fair treatment and fair opportunities as a national, and not an international, commitment.[[59]](#footnote-59) Though the focus of the RtP was intended to be on the rights of the victims rather than the interveners, and though military intervention was only one of the options considered appropriate to protect people across the world, much of the report – some 13 pages – on the responsibility to react elaborates upon revised ‘just war theory’ criteria for judging the legitimacy of an intervention, as well as operational military issues. Despite claiming that RtP moves the debate on from the intervention deadlock, Weiss goes on to say that ‘the acknowledgment by the 2005 World Summit (preceded by the work of the High-Level Panel on Threats, Challenges and Change) of RtP has reinforced the legitimacy of humanitarian intervention as a policy option’,[[60]](#footnote-60) bringing the debate back to military intervention in response to national governmental failures and ignoring potential wider causes of injustice and violence.

A third problem with RtP relates to how the question of justice is framed and its focus on a society of ‘good’ states and the manifest failure of a particular state. By setting up intervention in these terms it avoids the question of the responsibility of the international community for any violence that occurs within that state’s borders, since it is assumed that the international community’s existing relationship with the state in question is ‘neutral’. In other words, it assumes that we are currently ‘doing nothing’ – when in fact we are already engaged in non-military (ie economic and political) interventions as well as complex economic involvement in many places. Philip Alston argues that the focus on *ad hoc* interventions in response to civil and political crises allows the interveners to avoid supporting existing multilateral human rights promotion and protection regimes.[[61]](#footnote-61) Anne Orford makes this point in relation to the Western representation of the Balkan crisis, where the key threats to internal justice and international peace were held to be at the local level, largely the product of historical ethnic tensions. When set against the local cause of threats, the international level was responsible for rescue – rather than being part of the cause.[[62]](#footnote-62) This idea is also present in the RtP report, where the international community’s preventative role was perceived to be in helping to identify local triggers of conflict (and responding to these triggers with diplomacy, sanctions or military intervention) rather than in changing global structures that perpetuate potential conflicts.[[63]](#footnote-63)

Examining this local-vs-international perception more closely in relation to the Balkans, Orford finds a chain of causation leading from the economic liberalisation project of the World Bank and International Monetary Fund to the increasing instability in, and eventual violent breakup of, the former Yugoslavia. She notes that before the two international financial institutions’ (IFI) interventions into the country, the different Yugoslavian provinces had been able to coexist peacefully with a degree of autonomy from the central government, without perceiving a need for full separation. The IFIs required the central government to enact constitutional changes that increased centralised control at the expense of autonomous regions, as well as decreasing education opportunities and reducing constitutional protections for workers.[[64]](#footnote-64) This led to a decrease in income per capita, increased unemployment and attendant social unrest, together with a perception within the various regions that independence would be necessary to be able to reverse the damaging social changes introduced by the central government and the IFIs.[[65]](#footnote-65) To the extent that there were any pre-existing nationalist sentiments, these had previously been managed effectively through regional autonomy and were therefore fuelled by the increasing sense of insecurity, instability and social exclusion resulting from the constitutional reforms and increased centralisation decreed by the IFIs.

What this point highlights, in connection to our previous argument, is that it is highly conceivable that the international system is involved in perpetuating causes of conflict, yet this has largely gone unrecognized. This is also mirrored in the RtP, as it currently places the blame for humanitarian violence at the feet of local actors and places the responsibility to rescue individuals, after a crisis has occurred, in the hands of other states.[[66]](#footnote-66) Teson echoes this unidirectional focus in his idea that our universal obligation to respect human rights might require us to rescue those who are victims of human rights abuses – but he does not view our obligation to respect human rights to be engaged earlier than the point of rescue. Such a view, however, fails to consider whether intervening states might bear some responsibility for crises that has developed in other states, through our prior relationship with the state in question.[[67]](#footnote-67) Whilst of course those carrying out the acts in question are not without blame, this assumption places the state in question as the *only* cause of harm. Weiss’ demonstration of support for RtP – because in consultations nobody asked for less intervention, they often wanted more[[68]](#footnote-68) – does not respond adequately to the question of why intervention is required in the first place.

That said, one paragraph of the RtP does refer to the role of Cold War debts and the trade policies of richer countries in preventing poorer states from addressing some of the root causes of conflicts, such as poverty.[[69]](#footnote-69) But, this is done so in a way that sidesteps the issue of the potential responsibility of the international community more broadly for the poverty that is acknowledged to contribute to much of the violence in the world.[[70]](#footnote-70) This is because it is assumed that democratic participation and the strengthening of human rights at the *national* level will decrease poverty and increase peace; and therefore that there is no need to consider the extent of the international community’s duty towards non-citizens in relation to poverty and inequality. Because of this assumption, only six lines are given over to considering the potential ‘direct’ responsibility of the international community for socioeconomic development in poorer countries (rather than tying socioeconomic development to national political constitution) and the potential for schemes of distributive justice to help produce international order.[[71]](#footnote-71)

Hilary Charlesworth, mirroring many of our concerns, views the focus on crises (and their consequent need for urgent military action in response) as also being problematic in contemporary legal debates. She comments that ‘using crises as the focus means that the “fundamental” questions and enquiries are very restricted’[[72]](#footnote-72) and argues that this focus ‘diverts attention from structural issues of global justice’[[73]](#footnote-73) such as global poverty and health inequality. Similarly, Alex Bellamy contrasts ‘death by politics’ (state sponsored killing) with ‘death by economics’ (such as starvation), which is somehow seen as outside the interest or responsibility of international law and the ‘international community’.[[74]](#footnote-74) Bellamy makes the point that ‘structural violence’, rather than organised military violence, is the main contemporary problem facing humanity and he concurs that posing the problem of ‘intervention’ ensures that it is perceived as a discrete act rather than a different part of the international community’s ongoing interventions into ‘problem’ states.[[75]](#footnote-75) The scale and degree of suffering resulting from socioeconomic problems such as health and poverty are significant challenges to RtP’s ‘negative’ crisis focus. As Andrew Hurrell quotes, the 1998 statistics of 588,000 deaths from war, 736,000 from social violence and 18,000,000 from starvation highlights the moral awkwardness of maintaining a focus on crisis, since during the same period, 34 million people worldwide were suffering from AIDS and HIV, 1.2 billion people were suffering from malnourishment, and 2.4 billion people lacked basic sanitation.[[76]](#footnote-76)

As Charlesworth argues, these problems do not just reflect the question of which rights are most important, but of who owes human rights duties to whom in the world. Henry Shue and RJ Vincent have both argued that the idea of ‘basic rights’ should include a right to subsistence in addition to civil and political rights. However, most principles of justice are deemed to end at state boundaries – the state must treat its people justly, by equality of political rights and opportunities.[[77]](#footnote-77) Other states are not required to treat other individuals – non-citizens – justly, by increasing duties to non-citizens in the socioeconomic realm. Because most just war principles of social justice end at state borders (and are in any event focused more on civil and political than socioeconomic rights), international legal regimes governing fair access to food or drugs are not seen as a problem relating to international order with which the international community should concern itself. An alternative focus on socioeconomic rights, together with the idea of wider responsibility than just the government towards its own citizens, would consider international responsibility not just for crises such as the Balkans, but for the global inequalities in access to food and health.

As a result, this raises important questions about ethical theory and its relationship to international law, and why it is possible to prohibit the abuse of certain civil and political rights by a government but not other rights, including socioeconomic rights affected by global structures? In addition, why should an ethical theory which underpins international law *prohibit* some forms of violence within states but *permit* prior interference by states and IFIs which can have dramatically destabilising effects on a state and increase poverty, inequality and background conditions for violence? Why should an ethical theory of international law prohibit Bellamy’s ‘death by politics’ but permit his ‘death by economics’ through starvation, malnutrition and lack of access to drugs?

To respond we argue that both cosmopolitans as well as advocates of RtP should rethink the role of ‘sovereignty as responsibility’ away from placing blame for crises solely with the government of the state in which the crisis occurs. This is because if cosmopolitans are truly concerned with protecting individuals from harm, and the harms directly related to military crisis, then fulfilling these aims actually requires a broader understanding of the relationship between mass atrocity crimes, poverty and inequality, including an understanding of the international community’s role in creating the conditions in which these crimes occur. If this is to be done thoroughly, then we believe this will necessarily require a better connection to be made between cosmopolitan justice and current arguments for intervention as posed by the RtP.

**IV. Conclusion: Jus ante Bellum and the Demands of the Consistent Argument within Cosmopolitanism and its Approach to Humanitarian Military Intervention**

In this paper we have argued that many cosmopolitan claims about humanitarian military intervention are incomplete on cosmopolitan grounds because they ignore the systemic and chronic structural factors that underwrite the root causes of these humanitarian threats. By way of examining cosmopolitan arguments for humanitarian military intervention and how systemic problems are further ignored in the Responsibility to Protect (RtP) and other key international humanitarian legal tenets, we have suggested that many contemporary cosmopolitans are guilty of focusing too narrowly on justifying a responsibility to respond to the symptoms of crisis versus demanding a similarly robust justification for a responsibility to alleviate persistent structural causes. Although we fully recognizes that immediate principles of humanitarian intervention will at times be necessary, the purpose of this paper has been to draw attention to what we are calling principles of *Jus ante Bellum* (right before war) and to stress that current cosmopolitan arguments about humanitarian intervention will remain insufficient without the incorporation of robust principles of distributive global justice which can provide secure foundations for a more thoroughgoing cosmopolitan condition of public right. In making a stronger link between a cosmopolitan approach to humanitarian intervention and cosmopolitan principles of global distributive justice, three positive implications are generated.

First, fully embedding arguments for humanitarian interventions and the demands thereof into robust principles of cosmopolitan justice will help sharpen the aims of intervention as well as generate a better philosophical response to those who view cosmopolitanism as a form of imperialism. As argued above, linking intervention to an idea of *Jus ante Bellum* will help to clarify ‘just intent’ under the banner of *Jus ad Bellum* as well as solidifying the chances of greater success for the intervention itself.

Second, fully embedding arguments for humanitarian interventions and the demands thereof into robust principles of cosmopolitan justice will help create a greater sense of legitimate authority for the interveners. This is because, if taken seriously, principles of *Jus ante Bellum* would have already required considerable efforts by the international community to correct structural elements that were greatly affecting stability. Again, if done properly and with a mutually consistent sense of global justice, a position of legitimacy held by the international community (or those intervening) would be heightened. This not only supports the legitimate authority clause of *Jus ad Bellum*, but also the idea of ‘international society,’ which could only assist in making any necessary intervention less bloody and more widely accepted because it was grounded on a more thoroughgoing notion of ‘justice.’

Third, we suggest that there is a strong element of consistency attached to the principle of Jus ante Bellum. Namely, it seems completely incoherent to claim that states owe a universal duty of justice and protection of human rights to their citizens while also claiming that there are no universal duties to people beyond borders until violence erupts. What is unclear in this case is why physical violence demands a corrective duty, yet other forms of known structural violence does not. Furthermore, intuitively, it seems incoherent to claim that there is a duty to kill in order to save distant strangers, but not a duty to alter unjust structural conditions that will foster that need to kill in the first place. In this regard, fully embedding arguments for humanitarian intervention and the demands thereof into robust principles of cosmopolitan justice can only to help create a more consistent argument by cosmopolitans. If this makes sense, then any policy aiming to protect populations from harm requires a reorientation of priorities away from a sole focus on military interventions into crisis situations, and towards redressing structural, systemic causes of crises before they occur. In modern context, this will of course include issues of health and education as well as the obvious, but so far avoided, restrictions upon arms sales and corporate activities in unstable regions, and a focus on non-military, more consensual, diplomatic peace efforts.

1. This is a working draft and the ideas are very much in ‘exploratory’ form. Please do not cite without the expressed permission of the authors. Thanks. [↑](#footnote-ref-1)
2. We are making a distinction between humanitarian intervention (which can take many forms) and humanitarian military intervention (which is more specific). This distinction is not always made in the literature. The use of the term humanitarian intervention as it is normally used is indicative of Danielle Archibugi’s definition, which suggests that humanitarian intervention is ‘a military intervention by an institution in an external territory without the authorization of the ruling government in that area for the purpose of saving persons from democide or from other serious human rights violations.’ In this paper we are adopting Cecil Fabre definition, which makes a distinction between humanitarian intervention and military intervention, suggesting that interventions can take multiple forms and that they are not necessarily limited to the use of military operations. Furthermore, in her definition, Fabre mirrors the key aspects of the definition provided by Archibugi, but also suggests (in-line with RtP) that interventions can be about responding to more than just large-scale human rights violations perpetrated by the ruling government, since intervention could also be justified when a government demonstrates an ‘unwillingness or inability’ to prevent mass conflict within its borders by third parties. For Archibugi see, *The Global Commonwealth of Citizens: Toward a Cosmopolitan Democracy* (Princeton; Princeton University Press, 2008), p. 191. For Fabre, see *Cosmopolitan War* (Oxford: Oxford University Press, 2012), p. 166. [↑](#footnote-ref-2)
3. David Held, ‘Violence, Law and Justice in a Global Age,’ no. (2001), <http://www.theglobalsite.ac.uk/press/112held.htm>; Mary Kaldor, *Global Civil Society: An Answer to War* (Cambridge: Polity Press, 2003); Mary Kaldor, *New and Old Wars* (Cambridge: Polity Press, 2006); Patrick Hayden, *Cosmopolitan Global Politics* (Aldershot: Ashgate, 2005); Daniele Archibugi, *The Global Commonwealth of Citizens: Toward Cosmopolitan Democracy* (New Jersey: Princeton University Press, 2008). [↑](#footnote-ref-3)
4. Heather Roff, *Global Justice, Kant and the Responsibility to Protect: A Provisional Duty* (London: Routledge, 2013). [↑](#footnote-ref-4)
5. Catherine Lu, *Just and Unjust Interventions in World Politics: Private and Public* (Baisngstoke: Palgrave, 2006), p. 135-6. [↑](#footnote-ref-5)
6. Ian Atack, *The Ethics of Peace and War: from State Security to World Community* (Edinburgh, Edinburgh University Press, 2005). [↑](#footnote-ref-6)
7. Immanuel Kant, ‘Perpetual Peace,’ in H. Reiss (ed.) *Kant’s Political Writings* (Cambridge: Cambridge University Press, 1970), p. 104. [↑](#footnote-ref-7)
8. Cecil Fabre, *Cosmopolitan War* (Oxford: Oxford University Press, 2012), pp. 3-4. [↑](#footnote-ref-8)
9. We are assuming that the use of force between two belligerents can be justified using standard arguments found within just war theory. Our concern here, which is far more complicated, is the use of violence between belligerents when this violence will also result in the foreseen killing of innocent people. [↑](#footnote-ref-9)
10. Both Cecil Fabre and Simon Caney have attempted to reconcile this tension. In both cases, the argument is made that a middle position between deontological and utilitarian can be found via what they call a ‘rights-centered’ approach. [↑](#footnote-ref-10)
11. This question has been dealt with to some degree by Reader, who argues that cosmopolitanisms deontological commitment leads to a pacifist rejection of war as being always unjust. See S. Reader, ‘Cosmopolitan Pacifism,’ Journal of Global Ethics, Vol. 3 (2007), p. 90. For another more pacifist rendering of cosmopolitanism, see Nigel Dower, *The Ethics of War and Peace: Cosmopolitan and Other Perspectives* (Cambridge: Polity Press, 2009). [↑](#footnote-ref-11)
12. Fabre has also given some attention to this problem, conceding that there is an inherent deontological tension in cosmopolitanism as it relates to the use of force, but that for practical purposes cosmopolitanism can be adapted, and that cosmopolitans should not resist the urge to protect global goods to which we all have claims as human beings. As a result, where there are clear threatening cases, military intervention is justified. See Fabre, *Cosmopolitan War*, p. 13-14. [↑](#footnote-ref-12)
13. Simon Caney, *Justice Beyond Borders* (Oxford: Oxford University Press, 2005), p. 225, n. 57. [↑](#footnote-ref-13)
14. One particular reason for this rests with the fact that most cosmopolitans make a distinction between ideal and non-ideal theory, suggesting that humanitarian military interventions are the mandate of non-ideal accounts, whereas debates about global justice writ-large are more appropriately related to ideal theory. [↑](#footnote-ref-14)
15. Lu, *Just and Unjust Interventions in World Politics: Public and Private* (Basingstoke: Palgrave, 2006), p. 146. [↑](#footnote-ref-15)
16. M. Newman, *Humanitarian Intervention: Confronting the Contradictions* (London: Hirst & Company, 2009), p. 208. [↑](#footnote-ref-16)
17. David Miller and Thomas Nagel. [↑](#footnote-ref-17)
18. John Hobson [↑](#footnote-ref-18)
19. David Chandler [↑](#footnote-ref-19)
20. David Harvey [↑](#footnote-ref-20)
21. Caney, *Justice Beyond Borders*, p. 189. [↑](#footnote-ref-21)
22. Immanuel Kant, ‘Transcendental Logic II, dialectic I, Ideas in General,” in J.M.D Meiklejohn (trans.) *The Critique of Pure Reason* (New York: The Colonial Press, 1900): [3:247]. [↑](#footnote-ref-22)
23. ‘Africa’s Missing Billions: International Arms Flows and the Cost of Conflict,’ *Oxfam / IANSA* (Oct. 2007). [↑](#footnote-ref-23)
24. Ibid. [↑](#footnote-ref-24)
25. S. Nili, ‘Humanitarian Disintervention,’ *Journal of Global Ethics*, vol. 7 (2011), p. 33. [↑](#footnote-ref-25)
26. ‘The Responsibility to Protect; report of the International Commission on Intervention and State Sovereignty’ (Ottawa: International Development Research Centre, 2001). [↑](#footnote-ref-26)
27. Fabre, *Cosmopolitan War*, p. 181. [↑](#footnote-ref-27)
28. Fabre, *Cosmopolitan War*, p. 189. [↑](#footnote-ref-28)
29. Fabre, *Cosmopolitan War*, p. 190. [↑](#footnote-ref-29)
30. ICISS *The Responsibility to Protect* (International Development Research Centre, Ottowa 2001) 2 para 1.7 (RtP). This paper is not intended to be an exhaustive examination of the legal, political and ethical aspects of the RtP, for this see, A Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities* (Polity Press, Cambridge 2009); A Orford, *International Authority and the Responsibility to Protect* (CUP, Cambridge 2011). See also the journal *Global Responsibility to Protect* edited by Alex Bellamy, at http://www.brill.nl/global-responsibility-protect. [↑](#footnote-ref-30)
31. RtP 3. [↑](#footnote-ref-31)
32. RtP 16 para 2.27. [↑](#footnote-ref-32)
33. RtP 11 para 2.1. [↑](#footnote-ref-33)
34. RtP 12 para 2.8. [↑](#footnote-ref-34)
35. RtP xi. [↑](#footnote-ref-35)
36. UN 2005 World Summit Outcome, UNGA Res 60/1 (24 October 2005). [↑](#footnote-ref-36)
37. N Wheeler, 'A Victory for Common Humanity? The Responsibility to Protect after the 2005 World Summit' (2005) 2 *J Intl L & Intl Relations* 95-107 at 97. [↑](#footnote-ref-37)
38. Wheeler quotes then-Home Secretary Jack Straw’s speech to the Labour party conference in 2005 – see Wheeler ‘Common Humanity’ (n 39) 97. [↑](#footnote-ref-38)
39. UN 2005 World Summit Outcome (n 38) paras 138-139. [↑](#footnote-ref-39)
40. ibid para 139. [↑](#footnote-ref-40)
41. SC Res 1970 (26 February 2011); SC Res 1973 (17 March 2011). [↑](#footnote-ref-41)
42. RtP 19 para 3.2. [↑](#footnote-ref-42)
43. Fabre, *Cosmopolitan War*, p. 170 and 207. [↑](#footnote-ref-43)
44. RtP 19 para 3.2. [↑](#footnote-ref-44)
45. RtP 19 para 3.4. [↑](#footnote-ref-45)
46. RtP 27 para 3.41. [↑](#footnote-ref-46)
47. RtP 29 para 4.5. [↑](#footnote-ref-47)
48. RtP 39 para 5.2. [↑](#footnote-ref-48)
49. RtP 39-45. [↑](#footnote-ref-49)
50. RtP 22 para 3.19. [↑](#footnote-ref-50)
51. S. Sharma, ‘Toward a Global Responsibility to Protect: Setbacks on the Path to Implementation, ‘ Global Governance, vol. 16 (2010), p. 127. [↑](#footnote-ref-51)
52. Alex Bellamy, Global Politics and the Responsibility to Protect: From Words to Deeds (New York: Routledge, 2011), p. 19. [↑](#footnote-ref-52)
53. Chesterman (n 1) 108, quoting part of Tony Blair’s speech in advance of NATO’s bombing campaign in Kosovo. Alex Bellamy also describes the choice as being between standing by and intervening – see A Bellamy, ‘Humanitarian Responsibilities and Interventionist Claims in International Society’ (2003) 29 *Review of International Studies* 320-341. See also A Orford, ‘Locating the International: Military and Monetary Interventions after the Cold War’ (1997) 38 *Harvard ILJ* 443-486 at 447 on the idea of action and inaction. [↑](#footnote-ref-53)
54. Glennon (n 7) 7. [↑](#footnote-ref-54)
55. Teson, ‘The Liberal Case’ (n 8) 14. [↑](#footnote-ref-55)
56. Glennon (n 7) 5. [↑](#footnote-ref-56)
57. Art 2(7) and 2(4), UN Charter. [↑](#footnote-ref-57)
58. See, eg, Weiss, *Humanitarian Intervention* (n 17) 12; Teson (n 8). [↑](#footnote-ref-58)
59. RtP 11 para 2.1; 19 para 3.2. See also F Teson, ‘Collective Humanitarian Intervention’ (n 8) 342; L Gordenker and T Weiss, ‘The Collective Security Idea and Changing World Politics’ in T Weiss, *Collective Security in a Changing World* (Lynne Reiner, Boulder Co 1993) 14; WM Reisman, ‘Some Lessons From Iraq: International Law and Domestic Politics’ (1991) 16 *Yale* *JIL* 203. [↑](#footnote-ref-59)
60. Weiss, *Humanitarian Intervention* (n 17) 89. [↑](#footnote-ref-60)
61. P Alston, ‘The Security Council and human rights: lessons to be learned from the Iraq-Kuwait crisis and its aftermath’ (1992) 13 *Australian YBIL* 107-176 at 107. [↑](#footnote-ref-61)
62. Orford, ‘Locating the International’ (n 62) 444. See also A Orford, *Reading Humanitarian Intervention* (CUP, Cambridge 2003) at 18 on this issue in general, rather than the specific situation in the Balkans. [↑](#footnote-ref-62)
63. RtP 19 paras 3.3 and 3.4. [↑](#footnote-ref-63)
64. Orford, ‘Locating the International’ (n 62) 453. [↑](#footnote-ref-64)
65. Orford, ‘Locating the International’ (n 62) 452; 454. [↑](#footnote-ref-65)
66. Glennon (n 7) 3. [↑](#footnote-ref-66)
67. Again, this can also be demonstrated with regard to Rwanda, where Belgium’s colonial policy of elevating Tutsis to senior economic positions at the expense of the Hutu population is said to have led to many of the ethnic tensions which were a causative factor in the genocide in 1994. Similarly, Rwanda’s exposure to the international market in coffee and the economic problems in Rwanda caused by the collapse in coffee prices is also said to have contributed significantly to the tensions. See, eg, B Jones, 'Intervention without Borders: Humanitarian Intervention in Rwanda, 1990-94’ (1995) 24 *Millennium - Journal of International Studies* 225-249; RH Robbins, *Global Problems and the Culture of Capitalism* (Allyn and Bacon, Boston Mass 2002) 269; P Verwimp, ‘The political economy of coffee, dictatorship, and genocide’ (2003) 19 *European Journal of Political Economy* 161-181. [↑](#footnote-ref-67)
68. Weiss, *Humanitarian Intervention* (n 17). [↑](#footnote-ref-68)
69. RtP 20 para 3.8 (12 lines). [↑](#footnote-ref-69)
70. See, eg, S Zizek, Violence (Profile, London 2008); Bellamy (n 62); J Galtung, *Peace by Peaceful Means* (Sage, London 1996). [↑](#footnote-ref-70)
71. RtP para 3.22; see D Chandler, ‘The Responsibility to Protect: Imposing the "Liberal Peace"?’ (2004) 11 *International Peacekeeping* 59-81 at 62 where he alleges that the report ignores the concerns of non-Western states. [↑](#footnote-ref-71)
72. Charlesworth (n 70) 377. [↑](#footnote-ref-72)
73. Charlesworth (n 70) 382. [↑](#footnote-ref-73)
74. Bellamy (n 62) 332. [↑](#footnote-ref-74)
75. Bellamy (n 62) 329. [↑](#footnote-ref-75)
76. A Hurrell, *Order and Justice in International Relations* (OUP, Oxford 2003) 42 citing T Pogge, ‘Priorities of Global Justice’ in TW Pogge (ed), *Global Justice* (Blackwell, Oxford 2001); Charlesworth (n 70). [↑](#footnote-ref-76)
77. Rawls (n 87). [↑](#footnote-ref-77)