



Universiteit Utrecht

In Search of a Value-Free Justification for Intervention in Cases of Genocide

*Overcoming Issues of Relativism and National Self-
Determination*

Master Thesis Applied Ethics

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Introduction

Genocide is a grave matter, and international response to it has traditionally been lacking: the international community has failed to prevent the Rwandese genocide of 1994, the Srebrenica Massacre of 1995, and so far the ongoing crisis in South Sudan has so far remained under the radar of international politics. When international actors did decide to intervene (such as in Kosovo in 1999 or in Libya in 2011), such actions were met with intense criticism. How is it possible that 72 years after the horrors of the Holocaust and 69 years after the signing of the Universal Declaration of Human Rights such mass atrocities as genocide and ethnic cleansing still occur? The failure to prevent such repugnant events seems to be intertwined with the international order of states itself: when the issue is one outside of the domestic context of their own state, international actors seem to be lackluster in response. And when an international actor *does* stand up to intervene, such actions are met with complaints that they violate the longstanding tradition not to interfere with the internal affairs of others. Since the violence of the 1990s a new doctrine has emerged which attempts to change the protection of populations from a domestic to an international responsibility. The *Responsibility to Protect* officially became a norm in international society in 2005, but it is a doctrine still marred by problems. The norm of non-interventionism needs to be transcended before humanitarian intervention can become an acceptable practice. But that norm has been a cornerstone of international relations, and cannot simply be bypassed. Even the biggest of mass atrocities, genocide, has traditionally not been enough of a reason to set aside the non-intervention norm. This gives rise to the question: how can the international community overcome objections to humanitarian intervention in cases of genocide?

In this thesis I will attempt to link non-interventionism to *radical relativism*, a moral theory that considers the culture of an ethnic group the sole source of the validity of a moral right or rule. The argument goes that, as culture decides morality and cultural beliefs differ from society to society, genocide cannot be considered universally morally wrong. Because culture is the essential source of moral values and beliefs, it is best to let every culture decide for itself how it pursues its own conception of the good. As such, it is best to leave societies to themselves in their organization and practices; hence, outside actors should refrain from intervening. The extreme implication would be that even in cases of genocide outside actors lack the moral authority to intervene in the domestic affairs of societies. This is a big leap, and I will need a significant amount of exposition before the reader will come to see how this argument is formed. Therefore the first chapter of this thesis will be an overview of what exactly are the issues at hand in cases of humanitarian intervention. I will provide a historical overview of interventionism since the Second World War before demarcating those cases that will be my point of focus and identifying the relevant actors that form part of these cases. In the second chapter, I will examine the reason why we should care about non-interventionism in the first place: what is the purpose of the norm? In doing so I will link the non-intervention norm to cultural relativism via the right to self-determination, another important norm in international relations. In examining the moral underpinnings of this right to self-determination I will conclude that they are based in radical relativism. Then, in order to overcome relativist objections to outside interference in internal affairs of societies I will attempt to provide a value-free approach to justifying intervention in

cases of genocide, with the purpose of providing an argument for intervening forces to sidestep the non-intervention norm.

Before I begin, I must provide a disclaimer: throughout this thesis it might seem that I give proper weight to the seriousness of genocide by treating it as just another practice that may or may not be permissible. I want to be very clear that I am quite aware of the seriousness of the topic, and it is my utmost goal to provide a way to prevent genocides from occurring in the future. To quote another author on the topic: “Although what is bad or wrong in genocide is often regarded as self-evident, it is in fact far from that; the assumption that it *is* obvious has led to both overuse and misuse of the term and to distortions in understanding its meaning” (Lang 2005, 5). Serious moral enquiry demands of us to ask serious questions that scrutinize even the most self-evident moral claims one can make. I fully agree that genocide is horrendous, perhaps even the greatest evil mankind can commit. But the practice persists, which seems to indicate that some groups disagree with the wrongness of genocide. That is a problem, one that needs to be considered carefully as it has possibly enormous implications; this thesis is an attempt at doing so. As a representation of what I have learned during this Master’s programme, there are three underlying motivations for the decision to choose this topic as the subject of this thesis. First, to contribute to the debate on humanitarian intervention within the current international political order of sovereign states guided by the principle of nonintervention. Second, to discuss the issues surrounding the debate on moral relativism. Third, to give an example of the practical implications of moral debates, and how discussions on moral theory inform the right course of action in the very real and problematic case of preventing mass atrocities in light of the traditional international Westphalian order. To explain this case, I will start with an overview of the issues with intervention.

Chapter 1: An Overview of Intervention

The purpose of this thesis will be to argue that when genocide is happening or imminent within the borders of a country, the international community should intervene and put it to a stop. Such a claim seems both obvious as well as morally concerning, as it comes from a position of questioning the act that self-evidently is one of the most deplorable atrocities mankind is capable of committing. Surely, no one would disagree that genocide is a horrible practice that should be banished from the world? And yet, genocide persists. In the 1990s the genocides in Rwanda and Bosnia could not be prevented, and United Nations officials have been warning for some time that actions to prevent genocide in South Sudan are urgently needed amidst the country's escalating ethnic violence (UN Secretary-General 2017). The NATO intervention in Kosovo in 1999 spurred on debate on humanitarian intervention, and re-opened debate on whether humanitarian intervention is permissible. What the above illustrates is that the international community's track record on genocide has been spotty at best, and that debate on the topic of humanitarian intervention is still far from over. This raises an obvious question: why is this the case? This first chapter concerns itself with providing an overview of the issue as it currently stands, starting by going through the historical developments in humanitarian intervention since the Second World War. From here, I will demarcate which forms of intervention I will be focusing on throughout this thesis, and which actors play a role in the cases I will consider. From here I will define the issue at hand, which is a tension that exists between a desire to intervene when mass atrocities are happening within a state's border and the long-standing norm of non-intervention in the domestic affairs of a state. These are necessary steps in order to make the reader aware of the problem I will be discussing in the rest of this thesis; the historical perspective is the background in which the issue of intervention can be placed.

1.1 The UN Charter and the Universal Declaration of Human Rights

The end of the Second World War and the atrocities committed during it gave rise to the idea that there are horrors so great that these should be put to a stop even when they take place beyond the jurisdiction of the international community. It was under this assumption that the international order changed during the 1940s and beyond: the decade saw the creation of the United Nations and the Universal Declaration of Human Rights (UDHR), but also the start of the ideological divide that would grip geopolitics until the 1990s, the Cold War. For our purposes, two major documents from this time are relevant: the Charter of the United Nations (the foundational treaty of the UN), and the UDHR itself. These two documents show the tension that is at work between the traditional notion that states are sovereign entities, yet the desire to stop inhumane treatment.

The Charter of the United Nations is the founding document of the United Nations itself, established in 1945, and lays down the purposes, basic principles, and rules of the organization. The goal of the UN is first and foremost to 'maintain international peace and security' by removing threats to the peace, suppressing acts of aggression, and settling international disputes (United Nations 1945, art. 1.1). Important to note here is that the organization wants to maintain *international* peace, meaning that the organization focuses on disputes beyond the borders of states. Article 2.1 clearly states that the organization "is based on the principle of sovereign equality of all its Members (idem, 2.1). But most telling

of the UN's aspirations to restrain itself only to international disputes, and the organization's self-imposed lack of authority within states, is Article 2.7, which is worth quoting in full:

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII (*idem*, art 2.7).

This Article expressly forbids the UN from intervening in *any* form of domestic affairs, unless it must do so in accordance with Chapter VII. This includes interventions in cases of mass atrocities, such as genocide or ethnic cleansing. As stated, we can find a caveat to this limitation in Chapter VII of the Charter, which provides the Security Council with the authority to delegate the use of force when there exists a threat to "international peace and security" (*idem*, art. 48.1). Again, the key word is 'international', which means Chapter VII does not provide an exception to Article 2.7 when it comes to domestic affairs.

Yet, a mere three years after signing the Charter the UN General Assembly would adopt a document the contents of which seem to run counter to this UN principle of not meddling with domestic affairs: the Universal Declaration of Human Rights (UDHR). This document, while not legally binding in itself, has provided a foundation for the modern conception of universal human rights, that is, rights that apply to all humans all the time, without exception. The UDHR was drafted by a group of scholars with a diverse background and was intended to be acceptable to all states participating in the UN at that time (Morsink 21-35). In this, the drafters were particularly sensitive to the different cultural, religious, economic, and political systems that both the drafters themselves and the people for who they were drafting their document came from. This was truly new about the UDHR: its intent to be not only universal in its audience, but also in its source. The strategy largely worked, and the UDHR was adopted in December 1948 by an overwhelming majority of the UN General Assembly (*idem*, 21-24). Nonetheless eight of the 56 members abstained from voting. Their reasons for abstaining varied, but the six Communist abstentions all had the same reasoning behind them: "Human rights [...] could not be conceived outside the State; the very concept of right and law was connected with that of the State (*idem*, 21-22)." The Communist argument was that it is the state that provides rights and laws, and seeing as the government of the state in communist systems *is* the collective individual, therefore the population itself provides rights and laws, and there is no need for an external source that provides rights to the population. In its core however the argument put forward by the Communist nations was one of sovereignty: the state itself is perfectly capable (and the *only* actor capable) of providing rights and laws. The state stands above universal conceptions of right and good. Here we can see the tension that existed between state sovereignty (as once again confirmed in the UN Charter) and a desire by those nations in favor of the UDHR to adopt a universal conception of human rights.

Very important to note is that the UDHR provided no *justification* for its contents, most notably for its assumption that "all members of the human family" have an "inherent

dignity” and “equal and inalienable rights” (Universal Declaration of Human Rights, Preamble); the UDHR is truly a *declaration* in the sense that it simply declares these rights as henceforth existing. This was a weakness, but also a strength of the document: the Members of the General Assembly could agree on the contents of human rights without having to agree on the justification for them (Beitz 2011, 36-37). In this we can see an example of cross-cultural universality, an approach to universality that will come back in Chapter 2. Its universality therefore depends on agreement from states, leaving open the issue of what to do when a state (or more precisely, its government) does not act in accordance with these rights. This issue would prove to be problematic in subsequent decades when governments failed to provide safeguarding of these newly established rights, or even were the actors violating these rights themselves, sometimes on a massive scale.

1.2 Mass Atrocities after the Cold War

During the Cold War, realism gripped geopolitics: the world was in a battle of ideologies, with the Capitalist West fighting against the Communist East. In such a political climate there was little room for humanitarian intervention if it did not directly serve the interest of the major world powers. For the West (and especially the U.S.), stopping the spread of communism was its first and foremost goal. Within this realist framework, there was little room for humanitarian concerns. Nonetheless, some major violent interventions in the domestic affairs of states took place within this period: most notably the Korean War, the Vietnam War, and the Vietnamese occupation of Cambodia. The first two of these were proxy wars fought from a distance by the major world powers; the third removed a genocidal regime, but was justified on grounds of self-defense. Meanwhile, mass atrocities committed in Indonesia in the 1960s, Bangladesh in 1970s, and Guatemala throughout most of the Cold War received a lacking international response. It seemed that the battle of ideologies was more important than the fight for humanitarianism.

This changed around the time of the collapse of the Soviet Union in 1991, when the disappearance of an opposing superpower with a different ideology allowed for Western values to dictate the international community. The fall of communism was a cataclysmic event in geopolitics in many ways, but I want to point out how it changed the makeup and purpose of two international organizations: NATO and the UN. For the UN Security Council, the fall of the Soviet Union opened up the possibility to become a more potent force in international peacekeeping. From the UN’s establishment up until that point the UN Security Council has been severely limited by the veto-problem: any of the five permanent members of the council (the P5, crucially among them the U.S. and the Soviet Union) could veto any resolution proposed by the Council, while Council resolutions are an essential step in UN authorization of force (as Chapter VII of the UN Charter indicates). Effectively this meant that, while unanimity among the P5 (the five world powers) ensured that UN intervention in a local conflict would not spark a global one, UN-authorized use of force was virtually non-existent in conflicts where the interests of the P5 were at play (with the Korean War as an exception). Both the Soviet Union and the U.S. were liberal in casting their veto, but with the collapse of the former and the new status as sole hegemon for the latter, the possibility opened up for the West to push through its agenda regarding security issues: Russia (the Soviet Union’s successor in the Council) had lost the geopolitical clout its predecessor possessed, given that its state apparatus had collapsed.

Therefore, the end of the Cold War was an opportunity for the UN to play a more proactive role in peacekeeping and humanitarian intervention. This can for example be seen in the swift condemnation of Iraq following that country's invasion of Kuwait in 1991. During the same time, NATO was struggling with its identity. The organization was first and foremost a Western military alliance against the threat from the east; with this threat gone, NATO had to find a new reason to exist. The Yugoslav Wars provided an opportunity to prove the organization's worth, and during the Bosnian War NATO intervened under the authority of the UN Security Council. The Soviet Collapse had made intervention both possible and necessary: possible, because P5 replacement Russia was a lot more reluctant to cast its veto than its predecessor; necessary, because NATO needed to prove that the organization was not obsolete. In this, it was mostly successful; NATO still exists in the modern world and has a strong focus on humanitarian intervention, acting as a strongman intervening on the behalf of the UN Security Council.

The big and notable exception to this would at the same time kickstart a new discussion on the principles surrounding humanitarian intervention in the face of mass atrocities: the Kosovo War of 1999. The Federal Republic of Yugoslavia, still in the middle of its breakup, went to war with the Kosovo Albanian citizens living within its borders. NATO, eager to prevent another Srebrenica or Rwanda, took it upon itself to intervene and started a bombing campaign against the Serbs without UN Council authorization. The move proved controversial, and it was only retroactively that the intervention was considered 'illegal but legitimate'; illegal, because it lacked authorization, but legitimate in that it prevented a humanitarian disaster and therefore was right to have taken place (Independent Commission on Kosovo 2000). However, this dissonance between legality and legitimacy in international moral practice was unacceptable, and a change in the doctrine of nonintervention was needed.

1.3 The Responsibility to Protect

This change came in the form of a new doctrine, the *Responsibility to Protect* (R2P). The doctrine finds its source in paragraphs 138 and 139 of the United Nations' *2005 World Summit Outcome* (UN General Assembly 2005). This document, unanimously approved by the members of the UN, officially establishes the norm that states have a responsibility to protect their populations against four forms of mass atrocities: genocide, ethnic cleansing, war crimes, and crimes against humanity. It consists of three 'pillars' of responsibility. The first pillar establishes that states carry the primary responsibility to protect their populations. The second demands of the international community that it provides assistance to a state that fails to uphold their responsibility to protect when this state asks for support. The third and most controversial pillar trusts upon the international community the responsibility to take action when a state fails to protect its population; in this case, the international community may bypass the government of a state to protect its population directly, be it through diplomatic, humanitarian, or other peaceful means. In extreme cases it also grants the international community the option of forceful intervention. However, certain caveats apply, and it is important to take note of these. Therefore, the relevant passage is worth quoting in full. The General Assembly is prepared to

take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity (idem, par. 139).

The “through the Security Council” -qualification leaves open the possibility that, even in cases where all other demands are met, one of the permanent members of the UN Security Council can still veto forceful intervention. This is precisely what happened during the Kosovo intervention, and therefore paragraph 139 is *not* a solution to the problems that arose in 1999. And here the issue at hand rises to the surface: if one of the five permanent members opposes intervention, how can an international actor wishing to intervene convince the opposing party of the moral rightness of such an intervention? R2P was hailed as a victory in the battle against the gravest of injustices governments can commit against their own people: but since the NATO intervention in Libya (considered to be a test case for the new doctrine) has raised serious doubts over its actual potential beyond being a rhetorical tool (Hehir 2013). Furthermore, developments since the *Outcome* show that the broad consensus presumed from its unanimous adoption may not be quite as substantive as hoped, and hurdles regarding confusion on the agreement still need to be overcome (Bellamy 2008). As long as these issues persist, P5 blockades may and will hinder timely responses to occurrences of mass atrocities. Arguments in international dialogue to overcome these hurdles are needed.

1.4 Which Interventions, Which Actors?

Before I proceed, a few words on the scope and the terms used throughout this thesis are in order. For the reasons mentioned above, my point of focus will remain limited to humanitarian intervention in those cases where imminent or ongoing genocide is taking place within the borders of a state; after all, in cases where one group transcends state borders in its attempts to commit mass atrocities on another group, the international community already has the ability to invoke Chapter VII of the UN Charter to justify intervention. Interventions of this nature already fit within the Westphalian paradigm and are therefore less interesting both from a moral and a political perspective: morally speaking the right to enforce international peace and security is relatively uncontroversial, and the international community coming together to stop such acts of aggression forms an accepted element of international politics. With Chapter VII, a mechanism to deal violent conflict between states is already in place. On the other hand, intervening in what essentially are a state’s internal affairs has traditionally been seen as a breach of the Westphalian state system, and the Kosovo case shows that such interventions are controversial. Indeed, R2P was established as an answer to precisely these kinds of interventions in internal conflicts, and it are military interventions of this nature that the term ‘humanitarian interventions’ usually refers to (Evans 2009). As such, I will use the term ‘humanitarian intervention’ to refer to these kinds of external military interventions within external conflicts. Paradigmatic cases are NATO’s actions in Kosovo in 1999 and in Libya in 2011 (insofar as the latter can be seen as an intervention to protect the Libyan population against mass atrocities), or a hypothetical intervention to stop the Rwandese genocide in 1994. In a related note, this thesis only

focuses on *military* intervention where violence is or may be used by the intervening force to coerce the perpetrating group into stopping its actions. Actions of this nature correspond with the third pillar of intervention, which in R2P's conception would be considered a measure of last resort reserved only for those cases where "national authorities are manifestly failing to protect their populations" (UN General Assembly 2009, 4). It is precisely those kinds of cases that I will be focusing on.

Within cases of this nature, there are three groups that are part of the equation that are relevant to consider: the perpetrating group, the victim group, and the intervening force. The perpetrating group is the one responsible for the imminent or ongoing mass atrocities, the group whose culture and moral beliefs have led to the abhorrent conclusion that genocide and ethnic cleansing are acceptable practices for one reason or another. Examples of these groups would be the Nazis, the Hutu militias in Rwanda in 1994, and those Bosnian Serbs responsible for the massacres against the Bosniak people. In their moral value system there is, for one reason or another, a belief that the mass atrocities they commit are permissible, at least when aimed at the victim group (the alternative is that the perpetrating group is committing mass atrocities while it is aware that such actions are morally wrong; I will return to this possibility of mass atrocities coming from *willed evil* later). That moral value system which fails to denounce genocide is the target of inquiry of this thesis: if such a system of beliefs exists, not just in the mind of an individual but as part of the culture of an entire group of people, what consequences does this have for our moral intuition that genocide is not only wrong by *our* standards, but by *universal* standards? And furthermore, how can we *reject* such a moral value system?

The second group that plays a role in matters of genocide is the victim group: those who mass atrocities are aimed at. Examples are the Tutsis in 1994, the Bosniaks in 1995, or (the most well-known example) the Jewish people during the Second World War. Relevant for our understanding of the victim group is that their members are not targeted because of something that they have *done*, but because of something they *are* (Lang 2005, 10-13). As a consequence, it is impossible for members of these groups to escape from the crosshairs of the perpetrating group: indeed, in matters of genocide and ethnic cleansing it is their existence itself that is the reason for the perpetrating group's actions. In these two cases, members of a targeted ethnic group or culture are targeted *precisely* because they are members of this group or culture; it is the destruction or removal of that culture that is the outcome intended by the perpetrating group. In matters of genocide and ethnic violence, the victim group is not guilty of anything but being who they are. As Berel Lang points out (*ibid.*), membership for individuals in such victim groups is (while in principle voluntary, perhaps with the exception of race-based groups) *imposed* upon those individuals by the perpetrating group. In other words, the perpetrating group decides who they consider to be members of the victim group as they are the ones deciding which individuals to target. A well-known example is the Nazi classification of people with mixed Jewish ancestry in either 'full Jews' or '*Mischlinge*' depending on the amount of fully Jewish grandparents a person had; one or two to be classified as a *Mischling*, three or four to be considered fully Jewish (Pegelow 2006, 43-44). The implication is that members of the victim group have no control over their membership, making it impossible to escape the fate the perpetrating group intends for them.

The third and last group that plays a direct part in humanitarian interventions is the intervening force: the external actor that has the intention to carry out the intervention to prevent or stop mass atrocities, defending the victim group from the perpetrating group. The intervening force is usually a state (e.g. the U.S.), a group of states (e.g. NATO) or one or multiple actors acting on behalf of the international community at large, normally in the form of UN sanctioning. Interventions of the first two kinds are considered *unilateral*; the last form is considered a *multilateral* intervention. Cases of multilateral interventions are less controversial as UN sanctioning makes these actions legal under the R2P doctrine but more importantly because multilateral support in practice means that no powerful country is opposed to interventions in these cases: after all, UN sanctioning is done through resolutions by the Security Council, where the 5 permanent members (the traditional post-WWII great powers) hold the right to veto UN resolutions. More controversial and therefore more interesting are unilateral interventions, cases where just a part of the international community (or even just one country) is in favour of an intervention.

In these cases a disagreement exists on the permissibility of intervention, indicating the possibility of disagreement not only on a political level (for example when an intervention would run counter to the geopolitical interests of one of the great powers) but also on whether intervention is permissible on *moral* grounds. To put it differently, in cases of unilateral intervention the intervening force has to defend its willingness to intervene towards the broader international community. As the moral permissibility of interventions in these cases is an undecided matter, they are the ones I will be focusing on. Examples are NATO's intervention in Kosovo (where intervention was retroactively deemed justified [Independent Commission on Kosovo 2000]), but also the 2003 invasion of Iraq, which in retrospect has proven to be even more controversial. The Iraq invasion is also relevant because it shows that not every intervention is primarily for humanitarian reasons: while saving the Iraqis from the Saddam regime was one argument the U.S. and the United Kingdom put forward to invade Iraq, it took a distant backseat to Western security concerns of alleged Iraqi ties to terrorism and possession of Weapons of Mass Destruction (Kramer and Michalowski 2005, 450-451). In real-world cases, more often than not humanitarian concerns are only a part of the motivation for an intervening force to want to stage an intervention, if at all. Nevertheless, in the cases I will consider I shall take for granted that the intervening force at least partially is motivated to intervene by an honest belief that the mass atrocities the perpetrating group intends to commit are morally repugnant and should be put to a stop precisely because of this. This makes the intervening force an actor with an own moral value system, one which considers genocide and ethnic cleansing to be unacceptable practices. In this they clash with the perpetrating force, who considers such practices permissible.

1.5 Defining the Issue

There is another matter of scope that needs to be clarified, namely which mass atrocities I will claim are the ones that warrant humanitarian intervention. In the previous sections I have mostly used the terms 'mass atrocities' and 'genocide' or 'ethnic cleansing' interchangeably. But of course, the mass atrocities R2P claims populations need to be protected for are, besides genocide and ethnic cleansing, also war crimes and crimes against humanity. These two groups can be separated and categorized, with the former relating to

the *intended outcome* of the perpetrating group and the latter concerning issues of *conduct* seen by that group. What I mean to say with this is that in both war crimes and crimes against humanity, the issue at hand is not *what* the perpetrating group intends to achieve with its actions, but rather *how* it is behaving towards the victim group in pursuit of some other goal. Conversely, in genocide and ethnic cleansing it is the intention itself that is abhorrent; the destruction or forceful removal of a people are goals that “shock the moral conscience of mankind” (Walzer 2006, 107) independent of how these goals are pursued. Moreover, war crimes and crimes against humanity are concepts the contents of which are dependent on agreement among the international community (in the case of war crimes through the Geneva Conventions of 1949, and in the case of crimes against humanity through customary international law); the terms themselves do not so much refer to a specific action committed by the perpetrating group, but are rather an amalgamation of actions and behaviour that are deemed unacceptable by the international community. As such, it is more difficult to say anything sensible about the concepts as a whole, including which actions belong to either category and which actions fall outside of their scope. While it is true that especially with genocide the exact definition of the concept is subject to international agreement (through the UN Convention on the Prevention and Punishment of the Crime of Genocide of 1948), both genocide and ethnic cleansing are concepts containing an essential core understanding on what they entail, respectively the destruction or forceful removal of a people. These two atrocities therefore contain a certain inherent component that tells us something about the moral values of those committing them, namely their attitude towards other cultures. This inherent moral element will come back later when discussing intervention in a way that is not applicable to war crimes or crimes against humanity, which is why the scope of the rest of this thesis shall remain limited to cases of genocide and ethnic cleansing.

Everything written up until now has been for the purpose of bringing the reader up to speed on the existing issue at hand regarding humanitarian intervention in cases of genocide. I have discussed the historical emergence of universal responsibility to protect populations against the gravest of atrocities, even (and especially) in cases where these mass atrocities are taking place within the domestic jurisdiction of a state. Recent history has shown us that the practices of genocide and ethnic cleansing still exist in our modern world, and still provide international problems when a unilateral actor steps up wishing to intervene. Of course, in the case of Rwanda no one stepped up, and this is equally problematic; but in such cases it is wholly unclear *who* bears responsibility. If no one wishes to intervene, it is difficult to see how the international community could be *forced* to intervene; after all, who would be the ones enforcing such a demand? Not the UN: they are only an actor insofar as they are the sum of their members, and if their members have no appetite for action, the UN lacks the force to demand it. Let us therefore focus on the cases where there *is* a unilateral actor wishing to intervene, but lacking the UN authorization normally required for such an intervention.

Kosovo is a paradigmatic case at hand: NATO wished to initiate a bombing campaign against Yugoslavia yet lacked the approval of the UN Security Council required for such military actions. In 1999 Russia and China had consistently opposed military action, stressing the importance of the non-intervention norm as a cornerstone of the UN and threatening to

veto any proposal for military intervention (Roberts 1999, 104). Although interpretable as a self-interested move by the Russians and the Chinese, it is also an example of different values trumping one another within different cultures: in the argument opposing intervention, the non-intervention principle trumps over humanitarian concerns. This makes the matter of intervention not merely a political issue (where the international community agrees on the moral wish for intervention, but political issues stand in the way of this goal), but also a moral one: if an intervening force wishes to overcome moral critique against military intervention, it has to provide a moral argument for why intervention is permissible. The rest of this thesis is therefore an examination of the possibility for such an argument: how can the non-intervention principle be overcome in cases of genocide and ethnic cleansing in order to provide moral support for a humanitarian intervention? In the following chapter, I examine the reasons for caring about the non-intervention principle, and how these are related to the theory of *moral relativism*. This link sets the stage for a discussion on why it is so difficult to overcome the non-intervention principle on moral grounds, and provides the necessary steps in order to provide a philosophical argument for bypassing a state's sovereignty when instances of genocide and ethnic cleansing need to be stopped through external military intervention within a state's borders.

Chapter 2: Connecting Intervention to Relativism

While the previous chapter explains how non-interventionism provides an obstacle to stopping or preventing genocide and ethnic cleansing, it leaves open the question of why we should care about non-interventionism in the first place. After all, if the non-intervention norm curtails the possibility to protect populations against even the gravest of atrocities, how can it possibly be defended? Non-interventionism is closely related to issues of state *sovereignty*, defined as the supreme authority of a state's government within the territory of that state (cf. Philpott 2016). Non-interventionism is a necessary consequence of the desire of international actors to respect the sovereignty of a state, with the concept of sovereignty itself being one of the cornerstones of the Westphalian state order. But the same question can be applied to sovereignty itself: why should it be valued? In this chapter I will discuss the link between sovereignty and moral relativism, the moral theory that considers *culture* to be the source of both moral values and judgements, through the intermediate concept of a people's right to self-determination. In a previous thesis I have discussed state sovereignty more thoroughly, including three reasons for why it is a valuable principle, the last of which is a people's right to self-determination (Van Impelen 2015). I will quickly revisit the first two of these arguments (and my responses to them) before shifting my focus to this latter objection to intervention.

From here, I will link the right to self-determination to moral relativism as self-determination is a guarantor for a people to conceive their own conception of the good and to provide a safe environment for their own culture. Such a *cuius regio, eius religio* ("whose realm, his religion")-approach to moral value systems of cultures indicative of a relativist point of view towards cultural differences, as a universalist conception of ethics would conclude that (to a greater or lesser extent) not every conception of the good is a right one. Yet, non-interventionism and the principle of sovereignty remove the possibility to prevent 'wrong' conceptions of the good from ruling a state. This issue will be discussed in the case of genocide: how does moral relativism relate to the universalist notion that genocide is inherently and always morally wrong? Not every conception of moral relativism is the same; therefore I will discuss two different approaches to relativism and how these work in combination with values that are presumably universally shared. The above will lead to the eventual conclusion that to make a convincing case against the non-intervention principle in cases of genocide, a value-free argument needs to be provided why the culture of the perpetrating group can be 'disqualified' and their right to self-determination bypassed. This chapter is intended to create this link between non-interventionism and relativism, so I will start with the relation between non-interventionism and sovereignty and why sovereignty is a valuable concept in international relations.

2.1 Sovereignty

As said, non-interventionism is the principle that external actors are not allowed to interfere in the domestic affairs of a state. As such, the non-interventionism principle is a necessary consequence of the idea that the political authority of a state (i.e. the government) is the supreme ruler within that state and its authority may not be infringed by external actors. Sovereignty has an *internal* and an *external* component: a government has internal sovereignty when its governance is not questioned by other internal actors (most

importantly the local population) and external sovereignty when this supreme authority is acknowledged by the international community at large. Those two dimensions do not necessarily go hand in hand. A local government that *de facto* or even *de jure* is recognized by the population as the supreme ruler may not or only partially be recognized by the international community, as is the case in Kosovo (partially recognized) or Northern Cyprus (which is only recognized by Turkey). Conversely, in some situations a government is recognized by the international community as the representative of a country in foreign relations while it holds little or no *de facto* power within its territory and is not recognized as the ruler by the local population; the Republic of China (Taiwan) up until its expulsion from the UN can be seen as an example. For the purposes of this thesis external sovereignty is the most relevant dimension, as it is the international recognition of a state's government that prevents a state from outside intervention; if a government's external sovereignty is recognized, its authority is respected by the international community.

But the tension between sovereignty and humanitarian intervention raises a question: why would the international community recognize and respect the sovereignty of a state's government in the first place? It is clear why this is the case among global superpowers: the U.S. *had* to recognize the authority of the government of the Soviet Union as breaching its sovereignty brought with it the danger of global nuclear war. In current times the same goes for the government of North Korea; invading North Korea brings with it great security risks. But in asymmetrical power relations respect for a smaller state's sovereignty is not directly a matter of security concerns: the invasions of Iraq and Afghanistan in the 2000s show that a powerful nation can safely invade a smaller one without 'bringing the war home', so to speak. So, why should a powerful nation respect the sovereignty of a state, especially when it disagrees with and has an interest in changing the way that state is governed (for example the EU having an interest in a Turkish government that is different from the current Mubarak-led one, or the US having a vast interest in access to Middle-Eastern oil)? In an earlier thesis I have identified three reasons why state sovereignty is valuable, which I will briefly repeat here: internal stability of that state, external stability of the international order of states, and a local population's right to self-determination (van Impelen 2015, 9-17). I will provide the arguments for internal and external stability, and my rebuttal against them, first.

2.2 Internal and External Stability Objections

The internal stability argument goes that the reason why a state's population endorses the sovereignty of its government because the government can protect the population from one another and the outside world; sovereignty is legitimate on the grounds that the sovereign provides safety for the population. In the strongest conception of this argument, the one provided by Thomas Hobbes (1985, 176-185, 212-213), the sovereign is free to rule in whatever way they see fit, as long as this safety guarantee for the population is honored. Combined with the monopoly on legitimate violence that comes with sovereignty the sovereign can restrain the population from committing crimes against one another by virtue of power, and can provide safety against the outside world by forcing their subjects to defend the state. The sovereign provides security by being more powerful than any of the population, which provides the population with a safe environment necessary for the flourishing of their lives; outside tempering with their sovereignty, so the objection goes, would undermine the stability of the state and with it the safety of the people living in it. As

such, the sovereignty of a state government should be respected by external forces as it is legitimized insofar it provides safety for the population, and outside intervention will endanger this safe environment and thus should be avoided. While an internal safety argument like this normally provides a convincing legitimization for state sovereignty as a concept, even in this strongest (Hobbesian) conception of sovereignty it will be difficult to argue that in an environment of genocide or ethnic cleansing the government still provides a safe environment for the victim group living within its borders. True, members of the perpetrating group may very well still be relatively safe, and the innocent people that belong to the same ethnic group as the perpetrators (e.g. the general Serbian population in the 1990s) still deserve to remain safe even in cases of outside intervention, but the internal stability objection loses its potency in cases of mass atrocities. It would be safe to say that the government of genocidal state fails to protect its population and as such the legitimacy of its role as the guarantor of safety is lost, allowing the intervening force to reject the internal stability objection.

The second reason to respect the sovereignty of a state has not so much to do with the internal stability of the state itself, but rather with the stability of the international state system as a whole. Violating the non-intervention norm may endanger the trust that exists among members of the international security that they will not be invaded by more powerful states and may send the Westphalian order into global chaos as the smaller states start to build up military forces or pursue nuclear capabilities in an effort to be able to hold their own against possible outside threats. There is a strong argument here: the Westphalian order itself was institutionalized in 1648 to curtail European expansionism before and during the Thirty Year War as such disrespect to the territories of states had left the European continent in ruins. The 'agreement to disagree' that the Westphalian structure created has proven to be a powerful method for ensuring that states for the most part limit their desire to go to war over issues that do not affect them directly (Werner and De Wilde 2001, 289). Indeed, whenever powerful states *do* pursue expansionist policies (Russian annexation of Crimea in 2014) or decide to invade other states (the U.S. in Iraq), such actions cause great international tension. Breaches of the Westphalian agreement cause states to lose faith in it, leading to increased distrust among members of the international community and a stronger chance of one nation or another deciding that 'preventive strikes' are necessary for survival. In short: intervention sows distrust among states that their sovereignty will remain intact, which increases the chance international society will return to the international anarchy left behind in 1648.

To overcome the dangers of external destabilization while at the same time allowing for intervention in order to stop or prevent the most grave of atrocities, it is essential that interventions of this kind do not undermine the confidence of states that their sovereignty will be respected by others. The way to do this is by ensuring that interactions between international actors will occur in a predictable way, so that they know what they can and cannot do. For example, state governments know that if they decide to attack other states, they can expect retaliation from the state they attack or from other members of the international community; Chapter VII of the UN Charter is clear on the matter that threatening the international peace is grounds for military action by the international community that has the purpose to restore the peace. A similar norm (or even law) can be

established regarding mass atrocities: if a state fails to protect its population against mass atrocities, such a norm would empower the international community to step in. Of course, this is precisely what the R2P-doctrine is: an agreement among members of the international community that if one fails to protect its own population against mass atrocities, this is valid grounds for other states to take over this role as protector of the population. The R2P-doctrine is not only *predictable*, but also *agreed upon*: the 2005 World Summit Outcome shows that among UN member states the doctrine is not only known, but that they have also consented to its incorporation into agreements on how international interactions are carried out. Intervention in cases of mass atrocities does not undermine trust in the Westphalian agreement, as states are (in principle) on the same page regarding what happens if they fail to protect their populations. That does not mean they have to agree with intervention in a particular instance (as when Russia and China objected to NATO intervention in Kosovo); the important part is that they understand what the consequences are of a state failing in its responsibility to protect their populations against mass atrocities.

2.3 Cultural Relativity and the Right to Self-Determination

There is a third reason why sovereignty should form an obstacle for external intervention in internal affairs: a people's right to self-determination. There are two components to this right which are both related to the existence of cultural *relativity* among different ethnic groups and societies, a pragmatic and a moral one. Cultural relativity (an explanans for cultural diversity) is the idea that moral rules and social institutions show significant variability depending on cultural perceptions, and that moral evaluation will differ depending on who is the one performing the evaluation and to which culture they belong (Donnelly 2003, 89). The pragmatic argument for providing cultural societies (or peoples) a right to self-determination is therefore simply to minimize conflict between different cultures in the *cuius regio, eius religio*-sense mentioned earlier: related to the external stability objection considered above, sovereigns have decided to 'agree to disagree' on fundamental matters such as religion, moral rules, or state organization. The purpose of the right to self-determination in this pragmatic sense is therefore to minimize conflict between societies that have wholly different outlooks on life; it functions as a solution that lets the variability of cultures not stand in the way of peaceful state relationships by being an agreement to let religious, moral, or political-ideological disagreements rest as long as they remain within the domestic realm. Basically, because cultures cannot agree on these issues they have decided that every group is free to pursue their own conception of the good. Humanitarian interventions are, at their core, a breach of this agreement. Therefore, separate from the issues of trust in the Westphalian agreement that arise with intervention, a deeper issue comes to the surface. Because even if the intervening force does have the capability of limiting military intervention to the local scale (thereby preventing wider destabilization), what gives them the right to decide that their conception of the good is better than that of others or the authority to impose that conception of the good beyond their own jurisdiction?

This is where the moral component to the right to self-determination comes into play. Because not only is there significant *variability* between different cultures, this variability seems unresolvable when disputes arise from it; these disputes are *intractable* (Baghrarian and Carter 2017). What I mean to say with this is, is that actors can disagree with one

another without either being obviously wrong; when “well-informed, honest and intelligent people” (ibid.) cannot resolve their conflict of opinion, there is a good chance they are in *faultless disagreement* (Brogaard 2007). For example, between freedom and equality a government can reasonably choose to promote either over the other when wishing to treat its population more fairly, as both can be conceived of as the cornerstones of fairness. Similarly, persistent disagreements remain over whether a state should pursue foremost order or justice (Bull 1971). If both parties to a moral disagreement recognize that different viewpoints may lead to different convictions, such understanding may lead to *moral ambivalence*, a phenomenon where one no longer considers their own moral judgements to be uniquely right (Wong 2006, 5-10). It is this phenomenon that may explain the popularity of *moral relativism*, which holds that the source of moral value systems is one’s culture and can thereby differ between actors depending on their cultural viewpoint; it may also explain the moral underpinnings to the right to self-determination. If we no longer believe that our moral judgements are uniquely right but dependent on our cultural upbringing, we lose the moral ‘high ground’ when evaluating practices and values of other societies from the outside.

From this position it seems reasonable that other societies and cultures should be left by themselves, and that we should not intervene in their internal affairs. As long as we consider societies to be overlapping with states (i.e. that every state consists of one cultural group and every cultural group has one state, the idea behind the *nation state*) it would follow that leaving societies to themselves is the same as leaving states to their own devices; which translates to national self-determination. According to this reasoning a people’s right to self-determination is thereby justified on grounds of moral ambivalence: because outside actors do not have a moral value system that is uniquely right, it is best to let every state decide on domestic matters for themselves. The flaw in this reasoning is of course that not every state consists of just one cultural group; precisely in matters of genocide and ethnic cleansing within a state the issue is that the perpetrating group wishes to destroy or remove from the state’s territory the cultural group of the victims. As cultures and states do not overlap, respecting the sovereignty of a *state* is not the same as respecting a *people’s* right to self-determination. Could we then intervene within a state without infringing on the right to self-determination of the perpetrating group? Not quite. While intervening within the borders of the state *might* in this way be acceptable (and I wish to stress it only might), humanitarian intervention does of course do a lot more than that; it intervenes in the practices of the practices of the perpetrating group as well. Interventions therefore infringes on the right to self-determination of the perpetrating group. And like any, their culture is valuable: I have argued elsewhere that national self-determination is a necessary element for individual wellbeing, as most goals in live beyond obtaining primary goods are culturally and socially determined and self-governance is needed to establish an environment where these goals can be achieved (van Impelen 2015, 11-12; see Margalit and Raz 1990, 448-449). As such, the objection remains.

2.4 Conceptualizing Relativism

If by now the reader feels that this thesis has become troublingly cynical in its approach to genocide, this is understandable. Claiming that a cultural group’s right to self-determination needs to be respected in the light that that group is committing the most horrific of

atrocities *is* a cynical approach. It seems frivolous: who could *possibly* agree with a moral system that considers the freedom of a culture to do as it pleases more important than preventing genocide or ethnic cleansing? There is however some precedent that such arguments need to be considered. Recall the objections of Russia and China to intervention in the Kosovo War: they were based on the non-intervention principle. There are many reasons to adhere to non-interventionism, but the consequences are clear: preventing genocides and acts of ethnic cleansing are not matters of paramount importance to everyone. As horrible as these atrocities are, serious actors consider other issues more important than the prevention of mass atrocities. And the outcome of non-interventionism is clear: it lets cultures do as they please, even if the practices they perform are horrendous. Objections to preventing genocide need to be taken seriously in order to be able to rebuke them. For this we have to remain cautious as not to fall into the trap of being swayed by our emotions. The topic must be discussed as rationally as possible in order to prevent ourselves from losing the agreement of people whose emotional responses are unlike ours. So while perhaps frivolous and cynical, this train of thought must not be derailed by our own feelings towards moral horrors. Do not mistake this cynicism for a lack of empathy: I do consider genocide, ethnic cleansing, the other mass atrocities, and a whole host of other crimes and horrors that follow from violent conflict to be repugnant. But that does not mean we must not consider (and attempt to refute) the validity of arguments that could make such atrocities permissible.

That is not to say that relativism generally holds such a cynical point of view towards transcultural values. To get a better understanding of what I will be arguing against, I will briefly explain different relativist approaches. Following Jack Donnelly (2003, 89-90) we can conceive relativism as a continuum from *radical relativism* ("culture is the sole source of the validity of a moral right or rule") to *radical universalism*, which holds that "culture is irrelevant to the (universal) validity of moral rights and rules". Positions of cultural relativists fall somewhere in between, granting that some basic rights may be universal for one reason or another, but that culture is the principal source of moral values and rules. A related theory often conflated with relativism is the normative position that, following from the fact that moral disagreements often are not or cannot be resolved (Gowans 2016). Following from moral intractability, the argument goes, we must be tolerant to people and refrain from judging the practices from an external point of view; judging cultures from the outside is *wrong*. Such a position is of course self-refuting: a theory that holds culture can decide which actions are right or wrong cannot claim that intolerance is *universally wrong*. What if my culture considers intolerance morally permissible? One cannot externally claim that I would be wrong for doing so. Normative relativism ('you *must* be tolerant') is untenable, but that is not the position usually defended by relativists. Their claim is meta-ethical: moral disagreements between different cultures cannot be resolved because there is no universal ground for doing so (Renteln 1990, 73).

Yet most moral relativists seek to curtail the limits of cultural diversity precisely to find some common ground between cultures in pursuit of *some* moral rights and values that transcend cultural borders. There are two approaches to achieve this goal: some relativists try to identify cross-cultural *contingent* universals, others try to place limits on what can count as true moralities. I will discuss both approaches, but I will not attempt to refute them; rather, I

will explain why I set them aside for the purposes of this thesis. A proponent of the first approach is Alison Dundes Renteln (1990), who attempts to identify apparent cross-cultural moral disagreements that can be recontextualized to show that while the outcome from moral deliberation might differ between cultures, the underlying values and sentiments are actually shared. She advocates for empirical research to find specific moral principles held in common by all societies, which would provide support to the idea that there are moral principles that, though not absolute in the sense that they are *independent* of culture and exist outside of society, are nevertheless *universally shared* by all societies and therefore part of every culture (idem, 78-87). According to this position universal moral values do not *necessarily* exist, but *contingently*; they are values that happen to be universally shared. When we relate such an approach to the issues of genocide and ethnic cleansing, what is needed is empirical support for the idea that moral norms on their impermissibility are universally shared. The *2005 World Summit Outcome* would give credence to this idea: recall that R2P was unanimously supported by the members of the UN, and that the doctrine is explicit in the claim that states have a responsibility to protect their populations from mass atrocities, including genocide and ethnic cleansing. This outcome would imply that all states universally endorse the norm that genocide and ethnic cleansing are morally wrong.

However, there are two problems with this claim. The first is that, as mentioned earlier, cultures and states are not the same. So although all governments of *states* might support an anti-genocide norm, the *2005 Outcome* does not support the claim that all *cultural societies* do so. The second problem is related: if all cultural societies supported an anti-genocide norm, genocide would be non-existent. The fact that the practice persists shows that there are some cultures (the Hutus and Bosnian Serbs in recent times) that do not ascribe to this anti-genocide norm. Furthermore, the Chinese and Russian response to NATO's intervention in Kosovo shows that even at the level of state government preventing genocide and ethnic cleansing is not of paramount importance, and can be overridden by other considerations. A contingently universally shared norm on the impermissibility of genocide is simply not there. But there is a deeper uneasiness to contingent universal norms on atrocities as grave as genocide: are these matters that can be left to contingency? Renteln's approach to universals leaves those in favour of an anti-genocide norm without argumentative ammunition to convince those against such a norm to change their position. If they do not agree with the moral wrongness of genocide, they cannot be compelled through argument, as differing moral values remain intractable. So while there may or may not be a "strong overlapping international consensus" (Donnelly 2003, 252) on action against genocide, there is nothing to prevent this consensus from falling apart. If a culture arises that considers genocide an acceptable practice (i.e. every case of genocide), intervening against the practices of that culture remains an infringement on that culture's self-determination.

The other approach is to find limits on what counts as true morality. This approach is the one taken by David Wong (2006), who seeks to identify these limits by identifying the implications our human nature has on which moralities are true. Our natural human needs (for example the need for access to primary goods, but also the need to be part of a social system) are requirements for our wellbeing and individual flourishing. Human beings require effective agency and effective identity, needs that can only be developed in personal

contexts such as family, friendship, and identification with places and the culture; in short, by *belonging* to certain entities. We human beings have a need to *care* for people and things that are valuable to us. Therefore, we have deeply personal perspectives that limit what we can do (idem, 115-178). Conversely, our need for these things requires that others leave us free to pursue; in Wong's theory this translates to a need for the value of *accommodation* across moralities, a necessary component because we encounter moral disagreements on a regular basis and social cooperation would be untenable without accommodating the viewpoints of others (idem, 242-266). Wong's theory is one that focuses on interpersonal relationships rather than cultural relativity between political societies, but we can still try to translate it to the level of cultures and peoples. The problem that remains is that it lacks a remedy to enforce accommodation as an element of cultural perspectives. In other words, the question remains what to do with those that do not accommodate to the perspectives of others. Must we remain tolerant towards the actions of the intolerant? The ultimate form of intolerance is the attempt to destroy those things that others hold dear; culture is one of those things, and genocide is the destruction of culture. It is also the destruction of families, neighbours, and peoples; therefore a group committing genocide destroys all those things Wong considers necessary for human wellbeing and flourishing. Lastly, and most importantly, it is the destruction of persons themselves. While Wong's theory does not discuss genocide, it is likely that we would agree that a morality that permits genocide does not fall within the limits on moralities he proposes.

While I mostly agree with Wong's theory and most of his sentiments (for reasons that fall far outside of the scope of this thesis), I will nevertheless let his theory rest for now. Apart from the difficulty of translating it to an international scope, there is a second reason why I do so: while Wong's theory is certainly a theory coming from relativism, it is not relativism *per se*. Rather, it falls more closely in line with *pluralism*, the view that there is more than one good in the world that is worth pursuing, or more than one duty to uphold, or a combination of the two (Mason 2015). Indeed, Wong himself calls his theory 'pluralistic relativism', and it is easy to see why: pluralistic relativism leaves more than one conception of the good, but not just *any* conception of the good. In this way it grants a great deal to objectivist views on ethics in that it agrees that there are some values that are culture-independent. It would therefore be subversive to treat pluralistic relativism as a representative of relativist theories, as it grants certain objectivist claims to the objectivist other relativists might not be willing to concede (in this case the existence of natural moralities). The reader might then wonder why I bring up Wong's theory at all. Two reasons: first, it shows that relativists are willing to pursue ways of uniting universal rights and values with meta-ethical relativism, indicating that relativist theories are worth taking seriously and that ways to unite universalist claims with relativist conceptions of morality *can* be conceived. Similarly, pluralistic relativism shows that adhering to relativism does not have to mean that just any morality will do. And second, because the idea of placing limits on which moralities are acceptable will return in the next chapter, albeit in a different guise. I will leave the more moderate approaches to relativism for now, and return to the more radical interpretation of what relativism entails.

2.5 Radical Relativism and Genocide

As I mentioned earlier, fully respecting the non-intervention norm has the effective outcome that cultures remain free to do as they please within the borders of the state they belong to, even if the international community does not agree with what happens. Strict adherence to the norm would imply that not even ethnic cleansing or genocide are sufficient reason for intervention. Such an attitude to the practices of other cultures can only be defended by *radical* relativism, where culture is the sole source of moral values and rights. Only in this conception can genocide not be considered universally unacceptable and sufficient reason to step in and put a halt to atrocities. If culture truly is the only source for morality, a culture that permits genocide cannot be considered to act morally wrong in a universal sense. In this case, there is no universal sense. The obvious implication is that under radical relativism, *genocide cannot be considered morally wrong*. This is the *Argumentum ad Nazium*: relativists “are not in a position to condemn even the most abhorrent of worldviews as they are forced to admit that every point of view is right (relative to the perspective of its beholder)” (Baghramian and Carter 2017). While this might be sufficient grounds to reject radical relativism outright, I encourage the reader to not fall in the trap of emotional disgust and to treat the position seriously; after all, we *have* to treat the option seriously as it is the sole way to provide moral justification for the principle of non-intervention, which itself is a respected doctrine. The implication that genocide cannot be considered universally morally wrong under radical relativism is one that we will have to accept for now; I will attempt cross this hurdle in the next chapter.

Chapter 3: A Value-Free Approach to Overcoming the Relativist Objection

Apart from its role in legitimizing non-interventionism there is a more pragmatic reason to take radical relativism as the starting point for an argument in favour of humanitarian intervention: it is simply the strongest conception of moral relativism. Therefore, if we can provide an argument even from the perspective of radical relativism, we can provide an argument from *any* relativist perspective. It is the canary in the cage of arguments in favour of intervention: if it stands the test, we can overcome relativism outright. This approach sets limits: if we accept that there are no universal constraints on morality, anything goes. Genocide and ethnic cleansing are not universally morally bad, and the argument for intervention cannot rely on shared moral values; in fact, it cannot rely on *any* moral values external to the culture of the perpetrating group. I will call this the *relativist objection*: under radical relativism external moral values (including an external anti-genocide norm) cannot be imposed on a culture by outsiders, as the only source of morality is the culture itself. Whatever the culture says is morally permissible, that *is* what is morally permissible (from the perspective of that culture). What we need to provide external critique is a *value-free* argument for allowing intervention in cases of genocide (i.e. one in which external moral values do not play a role). This goal is not the same as providing an argument for the moral impermissibility of genocide; radical relativism makes *that* goal unobtainable. We bypass the idealistic desire to be able to universally condemn genocide and focus on the practical goal of preventing or stopping it.

3.1 The Argument for Intervention

Given that the content of the moral value system of the perpetrating group has to remain unspecified (as it is not limited by external constraints), few methods for providing a moral argument for the wrongness of genocide remain. However, the nature of the environment in which the argument is provided contains two elements that will aid it: the first is that certain attributes can be ascribed to the audience the argument is *for*, the second is that one commitment can be ascribed to the group the argument is *against*, the perpetrating group. Of the audience, which in our case is the international community or the intervening force, we can assume that it is susceptible to reasonable arguments and therefore would not accept internal inconsistencies in argumentation, and that it does not condone genocide as an acceptable practice. We can furthermore assume that the intervening force already wishes to intervene – and that what is holding them back is whether the argumentation of the perpetrating group holds. Coming from a position of radical moral relativism, the most likely way of disproving the argumentation of the perpetrating group is by providing internal criticism that shows that the argument is inconsistent with the value system of the perpetrating group itself. Of the perpetrating group, the one committing genocide, we can assume that it either *accepts* genocide as evil and its actions as willed evil, or that it considers genocide as a good or at least a permissible practice. Let us for the sake of convenience assume the latter situation where the acceptance of genocide is part of the moral value system of the perpetrating group (I will return to this assumption later). We can now specify at least one element of the moral value system of the culture we are arguing against, namely precisely that that culture accepts genocide. Starting from this position, the

option lies open to provide a transcendental argument; in this case the intention is to show a flaw in the logic of the perpetrating group.

The argument goes more or less like this. (1) The perpetrating group is committing a genocide or on the verge of doing so. (2) We assume that, given (1), the perpetrating group considers genocide to be an acceptable practice. (3) We assume that the intervening force does not consider genocide to be an acceptable practice. Of course, from this follows that (4) the intervening force wants to stop or prevent this particular ongoing or imminent genocide from happening. Naturally, (5) the perpetrating group wants to prevent the intervening force from intervening, and does so on the grounds that, because it is a culture, it has a right to self-determination, including the right to live according to its own culture and moral values (the relativist objection). Also, (6) we assume that the intervening force accepts radical moral relativism, therefore that no universal moral values exist, including a universal value that genocide is morally wrong. Following from its acceptance of radical moral relativism, (7) the intervening force does not wish to deny a people's right to self-determination. Yet, (8) the intervening force is susceptible to reason and would not accept a moral value system that is internally inconsistent. Therefore, (4) and (8) combined would lead to (9) the assumption that the intervening force will see no objection to intervening when the moral value system of the perpetrating group can be shown to be internally inconsistent, given that no further objections against intervention exist (for example the risk of undermining the internal or external stability, or more practical issues such as feasibility), for then there would no longer be an objection against doing so.

From the above, we can see that the perpetrating group holds both (2) and (5) simultaneously or, in other words, that it accepts genocide as an acceptable practice while at the same time arguing for a right to self-determination as an argument against outside intervention. But remember what genocide is: it is not just mass murder of the greatest numbers, it is not even merely the mass killing of innocent people just because they belong to the (in the eyes of the perpetrator) wrong ethnicity. Yes, it is all those things (and those elements of genocide are absolutely abhorrent), but it is something more as well: it is mass murder of innocents *with the express intention of destroying the culture those people belong to by killing them*. Therefore, while it might not be the most horrible element of the practice, genocide is also an attempt at destroying a culture (Lang 2005). With this being the case, the perpetrating group not only accepts (2), but also (2a) that destroying a culture is an acceptable practice (as destroying a culture is an essential element of genocide). But this does not rhyme with (5), for how can the perpetrating group both hold that other parties should respect the right for a people to live according to its own culture and moral values, while at the same time consider the destruction of those very culture and values (in other cases than its own) to be an acceptable practice?

If the moral value system of the perpetrating group cannot harmonize (2a) with (5), it would follow from (9) that the intervening force would intervene. For the moral value system of the perpetrating group to become consistent, it should either drop the idea that genocide is morally permissible, or the claim that a people has a right to self-determination. Given (1) is the case and (2) follows from (1), (2) cannot be dropped, and with it neither can (2a). This means the perpetrating group loses its claim on (5). What basically happens in this argument

is that the moral value system of the perpetrating group gets 'disqualified', so to say, on grounds that it is not internally consistent. And to make it consistent, the perpetrating group has to revoke its claim on a right to self-determination. With this, the moral value system of the perpetrating group has been argued to be flawed from an internal perspective, and if it wants to solve this flaw, it has to accept that its value system does not have to be respected. With the moral value system of the perpetrating group either disqualified or unable to argue that external forces should respect a people's culture, the barrier of a right to self-determination is removed, and with it this objection against intervention.

3.2 Genocide as Willed Evil

As I see it, two objections can be raised against the argument as laid out above. The first objection is that the perpetrating group can deny (2), that it considers genocide to be an acceptable practice. We took as an assumption that the perpetrating group accepts (2), but of course this does not have to be the case. Seeing as (2a) ('destroying a culture is an acceptable practice') follows from (2), the perpetrating group can then also argue that it does not accept the destruction of culture an acceptable practice, including the destruction of its own value system. This would remove the inconsistency with (5) (the relativist objection), and allow the perpetrating group's claim on a right to self-determination to stand. Of course, the consequence of denying (2) in combination with the fact that genocide is being committed leads to the inescapable conclusion that the perpetrating group's actions are an example of willed evil: in this case those committing genocide do so while in the belief that their actions are morally wrong. As I mentioned before, this removes the need to argue for the wrongness of genocide, as this is already readily accepted by the perpetrating group. Yet, the practice persists.

But if this is the case, the intervening force would be free to intervene (again, given that there are no further objections) as such an intervention would no longer violate (7) (the right to self-determination): after all, stopping genocide is in line with the moral value system of the perpetrating group's claim that genocide is unacceptable. I must admit that I am taking shortcuts here: considering a practice to be morally wrong is not the same as claiming that it should be put to a stop. After all, that is the whole point of non-interventionism, the doctrine that claims a third state should not intervene in the internal affairs of another state, even (and especially) if it considers those affairs to be morally reprehensible. But what *does* happen is that it makes the perpetrating group's actions indefensible by removing any possible argument that would defend them: it would follow that intervention from the outside then no longer is an attack on the perpetrating group's norm on genocide. It would be a difficult argument to make by the group perpetrating genocide that outside intervention is unjustified while it at the same time accepts that its own actions are morally reprehensible, without resorting to a level of hypocrisy that would be hard to take seriously. The perpetrating group would have to commit genocide, and agree that it is wrong to do so; yet, this should not deter it from continuing. It must then also simultaneously argue that it would be wrong for an outside force to intervene by arguing that interference by an intervening party would be unjustified meddling, which it must claim to be unacceptable. By this point it would be safe to say that reasonable argument has been thrown out of the window.

3.3 Inequality of Cultures

Another objection to the argument put forward above is that in some ways (2a) *can* be combined with (5), such that the perpetrating group can hold both that genocide of *another people* (in this case the victim group) is an acceptable practice while at the same time asking for respect for *its own* culture and customs. Such a disparity can be achieved by arguing that not every people is equal, and by extension not every culture. This can be done either by the perpetrating group considering its own culture to be exceptional, for example as the 'right and only' people, or by claiming that the victim group is of a lower standing, perhaps even a group of lesser humans or not human at all. And indeed, this is a strategy which is known to be used by perpetrating groups, for example when trying to rally their own people and encouraging them to destroy the victim group. For example, the term *Inyenzil* (meaning cockroach, although having a specially negative connotation in the local language) used by Hutu extremist media to refer to the Tutsi people in the period leading up to the Rwandese Genocide creates images of a pest that needs to be exterminated (Prosecutor v. Akayesu 1998, par. 148-149). Indeed, dehumanization also formed part of the atrocities committed by the Serbs in Bosnia (Rorty 1993, 167-169). By distinguishing between the own group and the victim group (in this latter case between fellow human beings and Muslims), the perpetrating group denies the victim group its humanity, and by extension the rights that the victim group can possess. As such, the perpetrating group can simultaneously believe the victim group has no right to self-determination or that its culture should be respected, while at the same time firmly believing that its own culture *should* be respected by the intervening force.

This objection is more difficult to reject, given that adhering to radical relativism denies us the possibility to demand of the perpetrating group to respect all humans equally. Even stronger, under radical relativism the perpetrating group is free to reject general human rights completely, and can simply deny that other people than its own have any rights at all. What the perpetrating group however *cannot* deny is its adherence to respect for cultures, given that it must hold (5). Of course, this is not what the perpetrating group does: rather, it denies that the norms and ways of living belong under this header of 'culture', given that it are not the norms and ways of living of full and equal humans but rather the customs of something lesser than that. You might say that the perpetrating group denies the victim group of having a culture at all, or at least it denies the idea that this 'lesser' culture should demand the same level of respect. Given that this is a belief the perpetrating group can coherently hold, and given radical moral relativism limits our external critique to value systems to merely critiquing their internal coherence, my argument in favor of intervention is in trouble. Can we still claim that the moral value system of perpetrating group can be disqualified? I think it can. It comes down to what constitutes a 'culture', and who decides which set of norms and ways of living fall under this definition of what a culture is. For while the perpetrating group may consider the victim group to not have a culture or to have some lesser form of culture not worthy of the same respect, the intervening group does not have to follow this reasoning. After all, the intervening group holds (7), which means that it considers a culture (*any* culture) to be worthy of respect, including its own. The intervening force is free to itself consider the norms and ways of living of the victim group to constitute a

culture, one that is worthy of respect and one which it considers to have a right to self-determination (and it is very probably does so, given its desire to intervene).

In this, the intervening force can take the role of an outside observer, one who says to the perpetrating group “all right, I accept that you don’t consider the victim group to be worthy of respect, but *I* do, and I will act accordingly”. Just as much as the intervening force has no argumentative ammunition to convince the perpetrating group of the worthiness of the victim group, the perpetrating group lacks the means to convince the intervening group of its *lack* of worthiness. Does this mean that the intervening group pushes aside aspects of the internal beliefs and understandings of the perpetrating group? Perhaps; but the alternative is that it pushes aside its *own* understanding of what ‘culture’ means. Respecting the culture of a group (even when that culture is absolutely horrible) is fortunately not the same as fully adopting its understanding of the world. If the intervening force adheres to its own understanding of what a culture is, the objection that (2a) and (5) can be combined does no longer make sense. Because from the perspective of the intervening force, the perpetrating group in fact *does* demand a respect for its culture, even when that very culture encompasses the destruction of the culture of others. It is not so much that the perpetrating group under (5) demands respect for its culture, but it demands respect for *its* culture *because it is a culture*. The force of (5) on its own depends on the attitude the intervening force has towards cultures in general, not towards the culture of the perpetrating group by itself (which, I must mention again, is absolutely *horrible* by our standards, and very likely by the standards of the intervening group as well).

3.4 Differing Perspectives

The perpetrating group can demand respect for its culture only insofar as it is a culture, because radical relativism forces the intervening force to respect cultures even when it from its own perspective considers those cultures to be extremely mistaken. The intervening force does not *want* to accept the values of the perpetrating group (which the intervening force, I myself, and very likely the reader as well consider to be morally repugnant), but radical relativism *necessitates* it to do so. However, if the moral value system of the culture of the perpetrating group can be shown to lack internal coherence, it can be rejected as a moral value system. For while radical relativism demands that the content of a moral value system remains open-ended, it cannot require the same of the form; because if the system is not internally coherent, it is not a system at all. If the moral value system of the perpetrating group allows for the destruction of cultures while at the same time demanding respect for cultures (not a *specific* culture, but a culture in general), it is a system that is visibly flawed in and of itself, independent of the moral values that the observer holds. And while those living under the moral system might negate this inconsistency by considering their own culture different from that of others (or conversely, by considering the culture of the victim group ‘lesser’ than that of itself), the outside observer has no obligation (and usually no reason) to accept such a distinction. As far as the observer is concerned, neither the culture of the perpetrating group nor that of the victim group need hold any special consideration: they are both external to them. Because both the culture of the victim group and the perpetrating group are external to the outside observer, they are in this sense equal in value to them. In this way, both intervention and nonintervention cause an equal level of destruction for the perspective of the observer. However, with the intervening force (who is

an outside observer) considering genocide a morally repugnant practice, it will itself consider the value system of the perpetrating force repugnant; in this sense, the cultures of the victim group and the perpetrating group are from the perspective of the intervening force morally *unequal*, with the perpetrating group being guilty of the most horrible atrocities.

However much this may motivate the intervening force to reject the values of the perpetrating group, it is by itself not enough to remove the relativist objection. Because while the intervening force morally disapproves of the actions of the perpetrating group, the exact point of the relativist objection is that moral perspective of the intervening group is not a universal perspective, and not worth more or less than the perspective of others (including that of groups it considers morally repugnant). The relativist objection is precisely that the intervening force cannot claim that certain actions (even genocide!) *are* bad, only that it *considers* them bad. However in the case of the perpetrating force considering genocide of the victim group to be an acceptable practice while it at the same time raises the relativist objection, the intervening force *can* consider the value system of the perpetrating group lesser than that of the victim group without resorting to its own moral convictions. After all, the value system of the perpetrating group is *from the perspective of the outside observer* logically incoherent. *To the outside observer* (which the intervening force is) the culture of either the victim group or the perpetrating group holds no special place, which to them makes the relativist objection incompatible with the acceptance of genocide of the victim group. *To them*, the perpetrating force, following from (2a), accepts the destruction of *a* culture (that of the victim group) while it simultaneously claims that *a* culture (that of the perpetrating group) may not be destroyed. From the outside, such a combination of claims makes no sense. And it is *towards this outsider*, this intervening force, that the relativist objection is raised, and it is from their perspective (their understanding of what a culture is) that the argument is being considered. So while the perpetrating group might consider the relativist objection compatible with its genocide of the victim group, the intervening force does not. The intervening force is therefore free either to disqualify the value system of the perpetrating force (relieving the intervening force from having to respect the culture of the perpetrating force) or reject its appeal to the relativist objection, which removes it as an obstacle to intervention.

3.5 Limitations on the Argument

There is an important downside to the approach taken above: it will be unable to convince the perpetrating group that their value system is mistaken. Because in a significant sense, it isn't: given that the perpetrating group holds that its culture and that of the victim group are different in value to such an extent that one can freely be destroyed while the other must be preserved and respected (which is something one can logically believe), it can also believe that its practices must be respected by outsiders, even when genocide is one of these practices, without being incoherent. Under radical relativism the outsider cannot say that this belief is mistaken, because every argument in favor of claiming that every culture is equal can simply be rebuffed as being irrelevant. Or rather, it is the other way around: the perpetrating group can take *any* difference between itself and the victim group as a morally relevant difference. It can consider Muslims, Jews, or Christians to be inherently worse people than others, ones not worthy of living; it can make say that black people are less human than white people, or the other way around; it can say that men are inherently worth

less than women; it can even say that people with smaller noses are less important than people with larger ones. If there is no universal argument for a certain level of equality among peoples, they need not be considered equal. This is the cost of radical moral relativism: it grants a people freedom to be intolerant insofar that it cannot say that those people are wrong (in a universal sense) when being intolerant.

Of course, this problem exists in a wider sense as well: the argument provided above does not lead to the conclusion that genocide is universally morally wrong *per se*: it only provides a reason for the intervening force to reject the relativist objection against intervention in cases of imminent or ongoing genocide, or to disqualify the moral value system of a perpetrating group that commits it. In other words, it is an argument that only works from the perspective of an outside observer, including the perspective of the intervening force. This is by design: in the previous chapter I already argued that genocide cannot be considered universally morally wrong from the perspective of radical relativism. The argument therefore does not aim to do this; rather, it tries to provide the intervening force with a way of justifying intervention in cases where genocide is happening. In this sense, its goal is to provide a form of *self-justification*. It also provides the intervening force with a way of justifying intervention vis-à-vis the wider international community, as long as members of that international community share the intervening force's perspective on what a culture is. The argument may fail to convince a perpetrating group of the moral wrongness of their actions, that is true; but the perpetrating group is not the *audience* this argument is aimed at. Rather, it is designed to persuade those against humanitarian intervention in cases of genocide on grounds that such interventions are imperialistic or (to put it in less inciting language) a form of moral overreach. Of course, I do not wish to say all interventions are justified, or that as soon as genocide is on the table anything to stop it is permitted. But at the very least there should be *some* agreement on stopping genocide that is coming from more than mere contingent consensus.

3.6 Implications

If the argument as laid out above provides a convincing case for intervention, it only does so for cases of genocide. The argument might be stretched to apply to cases of ethnic cleansing as well, but the problem is that ethnic cleansing (horrific as it is) is not so much the *destruction* of a culture, but its *removal* from a territory. One can change the argument to state that performing ethnic cleansing is logically inconsistent with the self-determination argument as well (as self-determination implies a right to choose one's own place of settlement), but an unfortunate side-effect of this might be that any limitation on a culture's settlement is a violation of that culture's right to self-determination. That may or may not be true, but from this point it would follow that any demarcation of territory (including the territorial borders of states) is an infringement of the right to self-determination of all peoples living outside that border. Such an implication would undermine the concept of sovereignty as a whole, and I am not sure whether that is a concession that can be made. So for now, it might be best to argue that any culture has a right to *a* place, but not to *every* place. This limits the argument provided above only to intervention in cases of genocide, which by itself might be considered highly problematic. Donnelly ran into the same issue: in a comparable argument for intervention in cases of genocide (one that argues from the position of overlapping consensus on an anti-genocide norm), he considered the following:

Acting only against genocide, however, flies in the face of the principle of the interdependence of all human rights (and the underlying idea that human rights are about a life of dignity, not mere life). It also places us in the morally paradoxical position of failing to respond to comparable or even greater suffering so long as it remains geographically or temporally diffuse (Donnelly 2002, 100).

If we wish to remedy this shortcoming, other value-free arguments for intervention are needed. At this point I do not know what they would look like, but maybe other ways of overcoming the relativist objection exist. In this sense, the argument provided above is only a starting point, showing that maybe it is possible to provide value-free arguments for humanitarian interventions. Even if my argument turns out to be flawed, it may provide a stepping stone to another argument that *does* hold.

Conclusion

Throughout this thesis I have attempted to link non-interventionism to an extreme form of relativism that is known as *radical* relativism. I have held that the moral underpinnings of the non-intervention norm can be found in the international acceptance of a people's right to self-determination, which in itself can be considered a consequence of relativity between cultures and the intractability between their moral values and beliefs. Besides pragmatic considerations of internal stability in states and trust in the international Westphalian state system, non-interventionism (itself a consequence of international adherence to principles of state sovereignty) can be considered a valuable norm because it allows cultures to pursue their own conception of the good and to organize themselves in a way that they see fit. However, not intervening in *any* domestic affair goes too far, and can only be morally justified when adhering to radical relativism, the theory that culture is the sole source of moral values and rules. Radical relativism necessarily leads to the claim that *no* universal moral rules exist, including a universal and absolute anti-genocide norm. But given radical relativism's place as a legitimization for non-interventionism combined with the fact that it forms part of scholarly discourse on morality I have attempted to work from a perspective of moral relativism to provide a value-free argument for justifying intervention in cases of genocide.

This argument relies on essential values we can assume groups perpetrating genocide to have and the internal inconsistency that exists between their acceptance of the permissibility of the destruction of culture and their objection to outside interference in their own culture. The conclusion I provided to this argument is that a group committing genocide cannot simultaneously hold that outside interference is unacceptable, and that if it does, its moral value system can be 'disqualified' on grounds of internal incoherence. I have considered objections of 'willed evil' (that is, a culture committing genocide knows its actions are wrong, yet continues to perform them anyway) and the objection that comes from a perpetrating group's belief that its own culture is superior to that of the victim group (or conversely that the victim group is inferior to other cultures) and attempted to rebuke both objections. To the first objection I have answered that the practices of perpetrating groups committing 'willed evil' can be disqualified on grounds of inconsistency between beliefs and actions; to the second objection I argued that the intervening force does not need to go along with the belief of the perpetrating group that their culture and that of the victim group is unequal, and that it is unlikely that it will do so. Lastly, I considered the limitations and implications of this argument, concluding that while it may only provide justification for intervention in a very limited fashion, it can provide a steppingstone for similar value-free arguments for justifying intervention in other cases.

Of course, we can also decide to reject radical relativism altogether, claiming its demands are excessive and its claims untenable in a globalized world where societies are interconnected. I would agree that radical relativism goes too far; but rejecting it means that the non-intervention norm loses its moral justification, which is problematic in itself. Rejecting radical relativism in international relations demands a serious reconsideration of the non-intervention norm, most importantly whether it is tenable at all. But until the members of the international community can agree that it is obsolete, non-interventionism

will rule international relations, and as long as it does, arguments for humanitarian intervention need to work around it. R2P, in this sense, is an important step towards the universalist side of the relativist continuum. Maybe a theory like the one provided by Wong, but aimed at the relations between international actors rather than individual persons, might provide justification for an international society that grows closer towards a common understanding of moral values. Perhaps such a theory already exists: then the next step would be to make it known to the powerful international actor. Until that time, it is hoping that the need for humanitarian interventions remains limited; and that when the need *does* arise, the Security Council can agree to authorize it.

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