

GREEN BERETS, BLUE BERETS. . . WHITE BERETS? HOW & WHEN REPUBLICS PARTICIPATE IN HUMANITARIAN MILITARY INTERVENTION

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The events of the last few years have dragged to the fore the question, inescapable in the modern world, of when and whether a liberal democratic state such as the United States has the right, or even the duty, to intervene militarily in affairs beyond its recognized borders.² Recently, the debate has been focused on the particular military interventions in Afghanistan and Iraq, and upon the issue of whether those “wars” were justified and whether the stated justifications were sufficiently based in fact.³ However, regardless of one’s opinion regarding the merits of those arguments, both the Afghanistan and Iraq interventions were justified by sup-

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² Although it is the subject of detailed scholarly analysis, the term “state” will be given its common meaning in this article, i.e. a group of people organized under a single, unified government with defined or nearly-defined borders whose organization is generally recognized as distinct from that of its neighbors by a significant number of other such groups of people as having sole authority to speak for the group, either *de facto* or *de jure*. Thus, the term would include, for example, the United States, Great Britain, and Israel, but would not include the European Union or Alabama. The term “nation” has been avoided because of its ethnic or religious implications.

Accordingly, “recognized borders” are those generally acknowledged by other states as the defined geographical spaces within which the state has the authority to speak for the group of people(s) composing it. Thus, Northern Ireland would be within Great Britain’s recognized borders, but Taiwan would not be within the recognized borders of the People’s Republic of China.

³ The term “war” will be used in this article in its colloquial sense of an armed conflict between states, and not in the legal sense of a conflict declared by Congress. Whether the resolutions and appropriations supporting the use of force in Afghanistan, Iraq, or the other military actions described *infra* were sufficient to legally suffice as declarations of war is a question beyond the scope of this paper.

porters on national security grounds, i.e. that the war was necessary to protect American lives or critical American interests. The result has been that the foreign military policy debate that was most salient before September 11, 2001 – whether the United States should intervene in conflicts which do not directly implicate its security interests – has been largely put on the back burner.⁴

However, even before September 11th, the debate started to become monotonous as humanitarian interventions were falling out of favor with the American people and with their leaders. Liberals, increasingly unwilling to commit to expanding the role of the military and concerned about potential violations of other states' sovereignty, increasingly turned to international organizations to resolve humanitarian crises.⁵ Conservatives by and large were coming to prefer maintaining strong reserve forces for homeland defense and to oppose most international military actions, especially those that risked American lives or placed American troops under international command. More importantly, the elected policy makers in the United States had come to firmly believe that the American people will not stand for more than a small loss of life where national security is not directly implicated.⁶ Since any military action carries the risk of bloodshed, a real hesitancy to support military actions abroad had developed in the American political leadership before September 11th.

This last hesitancy, both on the part of the people and that of their leaders, is largely a product of the particularly brutal way in

⁴ During the foreign policy debates of the 2000 Presidential campaign, this topic was center-stage, as the candidates struggled with the necessity of humanitarian military interventions as one of the principle national security concerns. At that time, relatively little attention was paid to terrorism or to Iraq.

⁵ Although again there is considerable scholarly inquiry into the definition of "sovereignty", it is not within the scope of this article to attempt to weigh in on this issue. Rather, here, "sovereignty" is used to refer to that degree of control accorded to the government of a state within its own borders. For purposes of this article, this degree is considered absolute, so that any intervention into the domestic affairs of another state is considered a *per se* violation of sovereignty. This definition differs, of course, from one that applies a test of legitimacy to a state's actions, and from the degree of sovereignty that another state or group of states is likely to apply in determining its actions. These latter definitions respond to international norms. However, any time another state actor or group of state actors purports to limit the ability of a state to act within its own borders, some measure of power is lost. To maintain the ability to identify this loss of power, a broader definition of sovereignty is employed, in a purely descriptive, non-normative way.

⁶ Although the question is beyond the scope of this article, it seems unlikely that this hesitance has lessened following the substantial loss of life in the interventions in Afghanistan and Iraq.

which the American people were introduced to the dangers of such interventions. The first and last American humanitarian intervention so described to the public was in Somalia, in 1992-93.⁷ The extensive media coverage of the massive Somali famine, brought on by the breakdown of the national government and the growth of rival gangs of “technicals” under the command of local and regional warlords, stoked the public’s desire to “do something.”⁸ With the American people unwilling to stomach the humanitarian tragedy developing in Somalia, President George H. W. Bush initiated military intervention as a purely charitable enterprise, little more than using United States Army Rangers (“Rangers”) to protect the donated food supplies from the technicals’ raids. When President Clinton took office several months later, the original mandate was expanded to an effort to establish and maintain a stable Somali government.⁹ This change included a decision to try to break the grip on power of the strongest Somali warlord, Mohamed Farah Aideed.¹⁰ General Aideed, predictably, resisted and, on October 3, 1993, his forces shot down helicopters transporting a group of Rangers on a raid. This led to a running battle

⁷ As is discussed *infra*, the United States nearly intervened in Haiti. However, because the government of Haiti allowed troops to enter the country, Haiti was an intervention only in a limited sense. Similarly, the military actions in Afghanistan and Iraq were described to the public as national security actions, to limit terrorism and to prevent the spread of weapons of mass destruction, respectively. Although some of the rationale was explained in humanitarian terms, specifically preserving religious freedom and ending tyranny, the clear focus was on national security, particularly as expressed before the United Nations and other international organizations.

⁸ The idea that the media’s coverage was responsible for generating a public groundswell of support for intervention has been referred to as the “CNN theory,” but the experience was not unique to the United States. “You see, it is soon going to be Christmas and it would be unthinkable to have the French public eat its Christmas dinner while seeing on TV all those starving kids.” Gerard Prunier, *The Experience of European Armies in Operation Restore Hope*, in WALTER CLARKE & JEFFREY HERBST, *LEARNING FROM SOMALIA: THE LESSONS OF ARMED HUMANITARIAN INTERVENTION* 134 (Walter Clarke & Jeffrey Herbst eds., 1997).

⁹ See generally John R. Bolton, *Wrong Turn in Somalia*, *FOREIGN AFFAIRS*, pp. 56-65 (Jan./Feb. 1994), arguing that the decision in favor of “assertive multilateralism” was responsible for the dark turn that the Somalia operation took.

¹⁰ The decision to attack Aideed came after his troops were implicated in the attack that killed 23 Pakistani peacekeepers on June 5, 1993. On June 6, the Security Council adopted Resolution 837, calling for Aideed’s capture and authorizing the use of force in its pursuit. This resolution later allowed Administration and Congressional officials to claim that the fault lay in giving power to U.N. commanders. See CLARKE & HERBST, *supra* note 8 at 240. The American people, by and large, probably did not notice this change. See Bolton, *supra* note 9 at 63. Even those who did perceive the policy shift may not have realized its serious implications for the nature of the mission.

that cost hundreds of Somali lives and produced the most recognizable image of the conflict – the body of an American soldier being dragged through the streets of Mogadishu by a cheering throng.¹¹ This image, like the images of starving children months earlier, had a dramatic effect on the American public. Within days, the United States had announced its withdrawal from Somalia.¹²

The tragic end to the intervention in Somalia has had a significant impact on the American people's view of international military intervention. The sum of this psychic impact is known as the "Somalia Syndrome," a belief by policy makers (both foreign and domestic) that where America's national interest is not directly implicated, the American people will not accept even minimal loss of life if that loss is sufficiently public or startling. Coupled with the danger implicit in any military intervention, the fact that the American people, by and large, believe that purely humanitarian actions do not directly implicate the national interest, and the well-founded belief that opposing forces will prey on this weakness by seeking to expose the American people to public acts of brutality, the Somalia Syndrome dictates that the United States will not often intervene in humanitarian crises.¹³

The task of this article is not to attempt to answer the core question of whether humanitarian military intervention may indeed be directly in the state's interest from a practical perspective. That is a question others have tried to answer and which demands a combination of expertise in geopolitics, international economics and military strategy. Rather, this article addresses the question of whether a liberal republic should intervene in humanitarian crises by examining the political and philosophical basis of a liberal republic. I will argue that there are compelling theoretical reasons that a republican state would, because of its innate political philos-

¹¹ This battle is detailed in the book *Blackhawk Down* and is dramatized in the film of the same name. See MARK BOWDEN, *BLACKHAWK DOWN: A STORY OF MODERN WAR* (Penguin Group 1999).

¹² TERRENCE LYONS & AHMED I. SAMATAR, *SOMALIA: STATE COLLAPSE, MULTILATERAL INTERVENTION, AND STRATEGIES FOR POLITICAL RECONSTRUCTION* 59 (Brookings 1995).

¹³ This explains, in part, why the United States became involved in the former Yugoslavia, where NATO was in play and where the argument could credibly be made that "world wars begin in the Balkans," but not in Rwanda, which did not implicate any direct security interests. It also explains the use of brutal, videotaped executions of foreigners by insurgents in Iraq.

ophy, support an aggressive strategy of humanitarian military intervention.¹⁴

Part I examines the four most recent examples of humanitarian military intervention in order to develop a typology of interventions and to discuss the different contexts in which an intervention might occur. Part II examines the basics of republican theory regarding international relations and humanitarian military intervention. Section A examines the development and re-development of republicanism by modern scholars and the theoretical vocabulary that they have created. Section B applies the theoretical observations of republican thinkers from Marcus Cicero to Richard Dagger to the current foreign policy dynamics of our time. This article contends that, under their collective vision, virtuous republics will be active interveners. Part III examines the implications of this determination for modern military force structuring. To this end, Section A demonstrates the failure of the current U.S. model for intervention. Section B responds with an alternate version of how America should structure its intervention forces, one that comports neatly with the theoretical concerns detailed in Part I.¹⁵

I. A TYPOLOGY OF HUMANITARIAN MILITARY INTERVENTION

It is important first to acknowledge that all interventions are not created equal and therefore it is important to develop a typology and shorthand system of reference by which republican political thought can be applied to the different types of intervention. Rather than searching military theory for all of the possible scenarios for humanitarian military intervention, this analysis will use as archetypes the four major humanitarian military interventions in the 1990s: Somalia I (1992), Somalia II (1993), Rwanda (1994), and the former Yugoslavia (1993, 1995, 1998).¹⁶ Since these are com-

¹⁴ While parts of this analysis argue practical points, they are not intended to be comprehensive or convincing utilitarian calculi. Rather, the practical matters relate to particular arguments raised in the past by republican theorists (especially the eminently practical Machiavelli) and should be read as necessary supporting arguments for the theoretical basis for intervention under republican and liberal republican political theory.

¹⁵ Section B also introduces some evidence from the recent conflicts in Afghanistan and Iraq to suggest that even in more traditional wartime operations, the United States has lagged behind in its preparation for the extensive rebuilding period that follows the actual taking of territory.

¹⁶ It bears noting that the U.S. did not intervene in Rwanda. In fact, the French action can itself hardly be considered an intervention; it came after upwards of 500,000 Tutsis

plex conflicts and various interpretations are possible, it is important to explicate what elements of conflict each is taken to represent in the context of this paper.

The intervention that is hereinafter identified as Somalia I is the archetypal humanitarian military intervention instituted by the first President Bush, which ended with the changes in policy instituted by President Clinton. In Somalia I-type interventions, the aim of intervening is strictly humanitarian (e.g., stopping famine), but military force is necessary to accomplish that goal (e.g., because warlords are interdicting and/or raiding U.N. food shipments).¹⁷ Somalia I interventions can also occur in response to natural disasters, such as typhoons or earthquakes, if there is a demonstrable need for military forces to protect rescuers (such as one might see in Tibet, for example, if a natural disaster struck there). The opposition force in Somalia I interventions can run the gamut from disorganized and poorly-armed (less dangerous than those in Somalia) to sophisticated and lethal on all levels of the battlefield (China), but will generally be of the former type. This kind of intervention could be carried out with the assent of the target state's government (e.g., protecting caravans from bandits) or against the target state's will.¹⁸

Somalia II interventions are of the more pro-active type seen after President Clinton took office. Rather than military forces taking a strictly protective role, they become actively involved in subduing the belligerents. "Somalia II" will also be used to refer to state-building operations in which intervening forces become actively involved in attempts to create or restore local government,

were slaughtered in massacres endorsed by their own government. CLARKE & HERBST, *supra* note 8, at 250.

¹⁷ It should be noted that some commentators consider the relief of famine to be an inherently political act, because it reduces the substantial coercive force that those who control the food have over those that do not. Certainly, where the famine is partially man-made, or where its effects are exacerbated by the intervention of individuals or groups, as in Somalia, the effect of bringing food to those who were being intentionally starved may seem political. Nevertheless, the aim of the initial action in a Somalia I-type intervention is not to create a change in the political leadership of a country. Rather, it is to ameliorate the suffering of the people. This distinguishes Somalia I interventions from Somalia II interventions. *See infra*. I am indebted to George Podolin for raising this point.

¹⁸ It bears mention that in most of these interventions no legitimate government will exist or two or more groups will have claim to being the governing authority. Somalia I is one example of such a "failed state" intervention, where no authority exists to permit or deny intervention, but competing armed forces render non-militarized intervention impracticable.

civilian justice, sanitation services and the other hallmarks of a modern country.¹⁹ Resistance in these cases is organized, at least on the small scale. Typical enemy forces will be armed with rifles and may in some cases possess heavier weapons (like the rocket propelled grenades that downed the Ranger Blackhawks) and/or body armor. They may have vehicular transport, but generally will not have armored vehicles or air support. Such interventions will not violate state sovereignty since, if there are multiple competing armed forces vying for sovereignty and civil order has broken down, the state is, by definition, a failed state.²⁰

Rwanda-type interventions are more directed militarily, but face less massive resistance than either Yugoslavia operations or even some Somalia II operations. In Rwanda itself, a massive ethnic conflict broke out, resulting in hundreds of thousands of deaths. Most of the killings were perpetrated by roving gangs armed with very little; many gang members were armed with nothing more than farm tools (mostly machetes).²¹ While Rwanda interventions may require more manpower than Somalia I operations, they require little military sophistication.²² Soldiers with rifles, particularly if they had the benefits of night vision equipment, would have been at little or no risk from the machete-wielding gangs, if combat commenced on even terms.²³ This kind of intervention only of-

¹⁹ Although the U.S. did relatively little state-building in Somalia II, other nations were more active. *See infra*. This is also the situation in which the lessons of Somalia II become most important for post-war Iraq, for example, and in which America's failure to learn them has proven most striking.

²⁰ The effects of this conclusion may not be immediately palatable, such as the possibility of justifying wide-scale foreign intervention into civil wars. However, as discussed *infra*, they are justified on a theoretical level, at least.

²¹ Similar allegations are being made about the current conflict in the Sudan, which is again testing America's willingness to undertake a Rwanda-type intervention.

²² With respect to Rwanda itself, there is debate over how many soldiers would have been sufficient. Some scholars believe that only a few thousand could have stopped the conflict. Others believe it would have taken far more.

²³ This is not to say that primitive weaponry makes an opponent a non-threat, but rather that the killings in Rwanda were carried out by the general populace. It is unlikely that these kinds of poorly organized gangs would have accepted many casualties before retreating, much less the number of casualties that would be inflicted by trained forces with automatic weapons.

For example, in Somalia II, even though 18 Rangers died in the Blackhawk Down incident, the Somali death totals are estimated in the hundreds. Those Somalis were somewhat trained and armed with modern weapons, including rocket-propelled grenades and rifles. A Rwanda intervention opposing force is likely to be untrained, ill-motivated, and largely armed with only hand-to-hand weapons. It is this disparity in training, armament, organization, and motivation that lead some commentators to conclude that Rwanda inter-

fends state sovereignty if the state organ is (a) functioning and (b) supporting the gangs. While both were true in Rwanda, one must seriously question whether a state sponsoring this kind of violence is entitled to any sovereignty protection under international law. This question will be addressed below in regards to how it applies to an intervener republic.²⁴

The final kind of military intervention is the most dangerous and in some senses the least humanitarian. The intervention in the former Yugoslavia was intended to stop state-sponsored genocide conducted by a sophisticated, heavily armed force against an opponent that had only slightly less military strength.²⁵ It was army against army, with the elements of the modern warfare (especially artillery) very much in play. Intervention in Yugoslavia was not based on a norm against majoritarian armed oppression, but rather was based on the belief that genocide is an inherent evil. To intervener states, the mass killing of civilians, particularly on ethnic, racial, or religious grounds, is intolerable regardless of how the sides are armed. Interveners' "humanitarian" aims begin (and often end) with the prevention of this kind of slaughter. Nations that intervene in Yugoslavia situations do so in the face of a significant military threat, a threat that shapes the way in which interveners structure their response.²⁶ Furthermore, Yugoslavia interventions must be treated differently than other humanitarian interventions, since they involve significant international security issues.²⁷ This kind of intervention is the greatest attack on sovereign statehood, because the genocide is being perpetrated by the acknowledged sovereign, and thus the intervention will generally only be success-

ventions could be undertaken by a very small number of soldiers, properly equipped and deployed.

²⁴ See, *infra* Part II(B).

²⁵ It could be argued that genocide is only perpetrated by a vastly superior force against an inferior one, such as when armed soldiers are employed to mass murder civilians. Regardless of the validity of such a definition, this paper employs "genocide" in the more general sense, as any mass killing perpetrated by one group of individuals against another on the basis of race, ethnicity, or religion.

²⁶ For example, the U.S. limited its attacks in Yugoslavia almost entirely to air strikes and cruise missiles. While some would contend that this was the most effective mechanism of intervention, this choice may also have been strongly influenced by the Somalia Syndrome discussed above.

²⁷ Thus, even with all of the talk of genocide, one still saw then-candidate George W. Bush defending the Bosnian intervention as protecting against another world war. This kind of logic, although it relied on a tenuous interpretation of history, short-circuited any efforts to expose the Yugoslavian intervention to the Somalia Syndrome.

ful if the sovereign state's military is substantially eliminated. Accordingly, Yugoslavia interventions involve the greatest risk to intervening forces and are likely to be much larger in scale than the others.²⁸

II. WHY LIBERAL REPUBLICS WILL BE ACTIVE INTERVENERS

A. *An Introduction to the Relevant Aspects of Republican Thought*

Through time, republicanism has meant different things to various people. The simplest definition, taught in high school civics, is that republicanism is rule by representatives elected by the people. However, while this provides the baseline definition, political philosophers from the time of Plato have worked on this concept, refining the theory of republican government and introducing a set of objectives for the republic and prerequisites necessary for their attainment. In an attempt to examine the common threads of what we now call republicanism, I have selected four authors, each from a period in which republican thought evolved.²⁹ Marcus Cicero represents one of the finest exponents of classical republican thought, writing as he did on the deathbed of the Roman Republic. An educated patrician, Cicero also wrote with the benefit of a broad education encompassing those thinkers and events that preceded him. Representative of Renaissance thought is Niccolo Machiavelli, who helped revolutionize classical republican thought in the late 15th and early 16th centuries, writing first as a secretary and key member of the Florentine republic, one of the first modern attempts at republican rule, and later as a prisoner of the Medici family that overthrew that nascent state. As republican thought

²⁸ This is a general rule. One can imagine circumstances in which a Somalia I or II intervention would need to be on such a scale as to require massive mobilization or where a Yugoslavia intervention would occur in such a small geographic region that it would allow a smaller one.

²⁹ It would be a far greater analysis than the one attempted here to create a comprehensive explanation of republican theory. Rather, this section is included merely to explicate some of the essential elements of republicanism as they will affect the discussion of modern humanitarian military intervention.

Furthermore, selecting four thinkers or groups of thinkers is rather like selecting baseball All-Stars: who does not make the list often gets more attention than who does. It goes without saying that the republican thinkers selected for examination, while broadly representative of their times, were not the only ones in their eras. Other choices would be equally valid and could produce different results. Nevertheless, the pattern that emerges across times is intact, broadly speaking, regardless of who is chosen.

matured and gained credibility during the Renaissance, it became a focal point of debate. Out of this debate eventually grew the first large scale republic since Rome, the United States. An examination of republican thought would be incomplete without some examination of the political philosophy of its creators, the “Founders.”³⁰ Nevertheless, the American Revolution did not end the evolution of republican thought. Writing in the present day, Richard Dagger is a pivotal interpreter of the preceding centuries. These are by no means the only authors whose contributions will be acknowledged below, but their thoughts on what republicanism means and what republics must do form the core of the discussion that follows.

Beyond the simple election of a representative government, several concepts are central to distinguishing liberal republicanism from other forms of governance.³¹ The first and most important concept that they have introduced is both an objective and a prerequisite – a virtuous citizenry.³² Although ‘virtue’ has many possible meanings, here it tracks the Greek *arête*, which roughly translates as “excellence.”³³ Civic virtue is, therefore, the excellence of the citizen.³⁴ As such, “civic virtue demands that [the citizens] look outward and do what they can do to promote the common good.”³⁵ In the ideal republic, this “disposition to further

³⁰ The term ‘Founders’ is used herein to refer to the key political figures of early America and is used instead of ‘Framers,’ which generally refers only to those present during the Constitutional Convention and therefore excludes John Adams and Thomas Jefferson, among others. Generally speaking, the thinkers cited below were active during the period bounded by the Declaration of Independence and the Monroe Doctrine. The thought examined therefore encompasses the difficulty of founding a state (1776, 1787-89), peaceful transition of power (1800), and crafting difficult foreign relations (especially 1797, 1812, and 1823).

³¹ Generally, the election of representatives by the majority will mean that – absent some form of failure (or, as republicans would say, “corruption”) in the system – states will only intervene where the population supports it.

³² Republican theorists maintain that only in a virtuous republic can a citizen be virtuous, but only virtuous citizens can create a virtuous republic. This seeming paradox is resolved by their understanding that virtue is not an all or nothing concept. Accordingly, over time, virtuous citizens create more virtuous republics, which make still better citizens, and so forth.

³³ See RICHARD DAGGER, *CIVIC VIRTUES: RIGHTS, CITIZENSHIP, AND REPUBLICAN LIBERALISM* 13 (Oxford University Press 1997) (providing a summary etymology).

³⁴ This is not to say that civic virtue means having citizens who are themselves in some moral or ethical sense virtuous; although it will almost necessarily be true of the civically virtuous, that characteristic does not define them as such. Rather, civic virtue is excellence in the *role* of citizen.

³⁵ See DAGGER, *supra* note 33, at 13.

public over private good in action and deliberation” becomes the dominant force in the choices citizens make.³⁶ Over time, civic virtue becomes the guiding force in their entire decision-making process.

The second core concept of modern republican theory (“liberal republicanism”) is the vesting in the citizen of certain inalienable rights.³⁷ The keystone right of the liberal republican theory is the equal right to guide one’s own actions, the right to “liberty.”³⁸ Without this right, people would not have the capacity to exercise free will and there would be no possibility of contract, of promise, or of free agency in society.³⁹ The right to liberty is therefore the core of societal power in the liberal republican framework, and it demands that the republican conceive of all people as equal on some basic level.

In a civil society, the range of choices is increased for each individual.⁴⁰ In society, then, one may move above the baseline

³⁶ Shelley Burt, *The Good Citizen's Psyche: On the Psychology of Civic Virtue*, Polity 23 (Fall 1990), at 24. Dagger supplements this definition with Montesquieu’s, “love of the laws and the homeland [which] require[s] a continuous preference of the public interest over one’s own.” See DAGGER, *supra* note 33, at 79, quoting MONTESQUIEU, SPIRIT OF THE LAWS 36 (Anne Cohler, et.al., ed. and trans., Cambridge University Press 1989).

³⁷ Ancient republican thinkers seem to have had some idea of this, because they vested the right to choose representatives in the people. However, in modern times, the concept of human rights vested by a republic has expanded in both scope and importance. The latter versions of republicanism have been termed “liberal republicanism” to reflect the difference. Because this paper examines the effects of modern republicanism, which is liberal republicanism, the terms will be used interchangeably hereinafter, unless specifically noted. Likewise, when used hereinafter, unless otherwise noted, the term “republic” is used to refer to the ideal republic, not to a specific government or society currently extant.

³⁸ The bulk of this discussion is drawn from DAGGER, *supra* note 33, at 18-40. Rather than repeating his justification of the terms he uses and conclusions he reaches, this article incorporates them by reference.

³⁹ The other rights that are created in relations between people (or, by extrapolation, states) are “special” rights, rights defined by the relationship between individuals who grant them to one another. These rights are enforceable precisely because of autonomy – individuals who bind themselves with promises or pledges can do so (and can live up to them) only because they are free.

⁴⁰ Without civil society, leisure would be slashed and mere survival would become the focus of existence. As society becomes increasingly sophisticated, though, the division of labor and its attendant individual occupational specialization provide opportunities for personal growth and self-actualization. This concept was at the core of Hobbes’s *Leviathan*; the sovereign possessed its powers precisely because of the expanded autonomy it gave every citizen. If there was no sovereign, in the famous phrase, life would be “brutish, nasty, and short.” THOMAS HOBBS, LEVIATHAN 9 (Hackett 1994). Hobbes thus presented the most extreme version of the generally accepted principle that having a func-

human right of liberty and reach into a greater range of discretion, into the realm of “autonomy.” Autonomy is possessed by people to a greater or lesser degree, like skill at chess or ability in English, to borrow Dagger’s examples.⁴¹ In other words, although the right to liberty is equal among all humankind, people seek not mere baseline choice, but the expanded value of autonomy, which is only acquired by forging themselves into a society. At the core of this transformation is the idea that, “No one becomes or remains autonomous solely through his or her own efforts.”⁴² People forge societies in order to facilitate self-actualization and its attendant increase in autonomy. Thus, autonomy implies interdependence.⁴³ Because self-actualization and the attendant control over one’s own destiny is a fundamental good in republican thought, in liberal republicanism, the natural human right of liberty becomes a civil right to autonomy.⁴⁴ Each having joined into this autonomy-fostering civil compact, the rights and duties of every member of a liberal republic are therefore reciprocal; every citizen has both a right against all other citizens to enhance (or at least respect) her own autonomy and a duty to all other citizens to enhance (or at least respect) theirs.

tioning civil society opens up a number of options which would not otherwise be available to a developing individual.

⁴¹ *Id.* The range of choices that are available is also affected by one’s wisdom, education, and self-awareness. Classical political philosophers, particularly, were clear that an uneducated, uninformed, or coerced choice is not a true choice. Thus, Aristotle argued that autonomy allows self-actualization and vice versa.

⁴² DAGGER, *supra* note 33, at 30. Accordingly, Hobbes erases the autonomy conflict by examining multiple generations of choices. Since one’s ancestors entered the social contract with the sovereign, who protected them and thus created autonomy for them, it was in the successors’ best interests to have entered the contract *ex ante*. However, since the contract with the initial sovereign made by their ancestor is also therefore in their best interests, the subsequent generations are bound by the deal made by their predecessor in interest.

⁴³ See DAGGER, *supra* note 33, at 39. This right to autonomy and duty to foster it (applied at the national level) will be at the core of the republican theoretical tension regarding humanitarian military intervention. For example, the general right to be free from bodily assault, writ large, seems to both preclude intervention and create a duty to intervene.

⁴⁴ Indeed, most political philosophers before the modern time based their determination of a state’s virtues principally on how well it served its citizens’ individual needs. This was true of monarchists like Hobbes, who supported monarchy because he argued that only an absolute sovereign could protect the citizens’ right to a long, healthy life. It was also true of the Founders, who wrote the concept into the Declaration of Independence in the most certain terms.

It is important to note that while civic virtue might trump personal interest, its doing so does not violate free will or personal autonomy. Rather, autonomy, properly understood, is a prerequisite for civic virtue.⁴⁵ This makes personal autonomy in a pure republic problematic – on the one hand, every citizen has a wide range of options available to her. But, on the other hand, the virtuous citizen sublimates her desires to the demands of her role as citizen.

The concept that reciprocal rights create manifold duties that are incumbent upon a virtuous citizen is central to republican thought – “No part of life, neither public affairs nor private, neither when acting on your own nor in dealings with another, can be free from duty. Everything that is honorable in a life depends upon its cultivation, and everything that is dishonorable depends upon its neglect.”⁴⁶ These duties take precedence over personal pleasures or pains.⁴⁷ They are extremely expansive; Cicero went so far as to argue that “nothing that is human is another’s affair.”⁴⁸ He further formulated republican duties as twofold: first, to do no harm, and second, to serve the common advantage. These duties are owed more strongly to those to whom one is close with and less strongly to those at a greater distance. Nevertheless, there is a “widespread fellowship” of each man with all others.⁴⁹ While Dagger was the first philosopher to systematize this theoretical analysis, the universal duty to autonomy has been a part of republican

⁴⁵ At its essence, this is a simple point – those not free to choose (e.g. without autonomy) cannot be virtuous. However, political philosophers have struggled with the more advanced versions of this relationship for centuries. For example, although Dagger does acknowledge that autonomy and civic virtue are in tension, he uses a move reminiscent of Rousseau and Hobbes to demonstrate that they can be in conformity. Rousseau and Dagger both postulate that everyone will want to do what is best. Rousseau crafted the idea of the General Will to suggest that individual autonomy should be overridden in cases where the two conflicted. Dagger uses General Will somewhat differently, further postulating that wise citizens will realize that the majority of (properly virtuous) citizens is more likely to discover the General Will than any one citizen. Accordingly, in a model republic, virtuous citizens will respect the will of the majority General Will as a reflection of what probably is the best course. They will therefore defer to the will of the majority, choosing to follow it over their own desires. By casting this choice to succumb as an act of autonomy, the law-desire conflict is erased.

⁴⁶ MARCUS CICERO, *ON DUTIES* 3 (E.M. Atkins, ed. and trans., M.T. Griffin, ed. Cambridge Univ. Press 1991).

⁴⁷ *Id.*

⁴⁸ CICERO, *supra* note 46, at 12-13, quoting *The Self-Tormenter* 77. Cicero notes that one should be cautious in reaching into others’ affairs, but does not attack the core contention that were one sure whether her actions would be fair she should do so.

⁴⁹ Compare CICERO, *supra* note 46, at 24, 62, 126 with CICERO, *supra* note 46, at 22.

thought since Roman times. Cicero took this duty to its extreme; he goes so far as to say that “for one man to take something from another and to increase his own advantage at the cost of another’s disadvantage is . . . contrary to nature”⁵⁰

The disjunction between Ciceronian universal duties and the more modest obligations suggested by Machiavelli suggests a far greater problem for someone trying to analyze republican foreign policy prescriptions. Indeed, republican political theorists are largely silent on international affairs. While their discussions of military affairs and power projection are legion, these discussions center on either the development of the right kind of citizen ethic for defense or on the question of whether a standing army suits a republican society, not on policy prescriptions. This is true even outside of the realm of foreign affairs. “As a consequentialist philosophy, republicanism is not dogmatic or doctrinaire. It presents us with a programme for developing policy, not with a policy blueprint.”⁵¹ However, despite this “un-dogmatic” approach, one can still find ways to extrapolate from republican theory to speculate how a virtuous republic would conduct itself abroad.

The first mode of projecting republican state behavior is to treat the state itself as a citizen in a global community of nations. One would then predict its behavior by examining republican prescriptions about how a citizen of civic virtue would act with respect to her fellow citizens.⁵² For purposes of reference, this concept of republican foreign policy will be called the “Global Republic” theory, since in it the state acts as a citizen in a global republic and obeys the prescriptions that republican thinkers created for the regular republican citizen.⁵³

⁵⁰ CICERO, *supra* note 46, at 108. Similarly, while many republican thinkers contend that the advancement of a single citizen is to the benefit of all citizens and vice versa, Cicero extends this argument further – “The benefit of each individual and of the benefit of all together should be the same.”

⁵¹ This silence is not limited to international affairs. PHILIP PETIT, *REPUBLICANISM: A THEORY OF FREEDOM AND GOVERNMENT* 147 (Oxford Univ. Press 1997).

⁵² The state would therefore act as does the “statesman” (a citizen of exceptional civic virtue) who “challeng[es] others to imitate him, and by the splendor of his mind and conduct offer[s] himself as a mirror to his fellow citizens.” MARCUS CICERO, *THE REPUBLIC & THE LAWS* 69 (Niall Rudd, trans., Oxford Univ. Press 1998). Naturally, the virtuous republic would fill this role, since its elected officials would have been chosen by citizens of civic virtue, who would select those most likely to be statesman.

⁵³ The greatest limitation to this view is that other nations will not always be republics, and thus will not always correlate with other citizens in this model. However, it is possible that they would fit any of a number of categories already in place in the republic. For

However, the Global Republic accords national borders significance not generally given to them by republican theory.⁵⁴ At the other extreme, one could treat national boundaries as transparent and citizens of a given state collectively as citizens of the world, either in addition to their local citizenship or to its exclusion.⁵⁵ This view is best represented by the Ciceronian conception of the fellowship of mankind, the tenants of which are summarized in a single paragraph in *On Duties*:

Now surely it is absurd to say, as some do, that they would not deprive a parent or brother of anything for their own advantage, but that there is another rationale for the rest of the citizens . . . There are others again who say that account should be taken of other citizens, but deny it in the case of foreigners; such men tear apart the common fellowship of the human race. When that is removed then kindness, liberality, goodness, and justice are utterly destroyed . . . the tightest bond of that fellowship is that it be thought more contrary to nature for one man to deprive another for sake of his own advantage than to endure every disadvantage, whether it affects externals or the body or even the

example, human rights abusers could be viewed by the republic as the global equivalent of criminals in regular society. This raises an interesting question – whether the Global Republic can be seen as having a “General Will.” This question is particularly interesting in the United States, where the Supreme Court has begun responding to international norms as though they reflected a consensus view unto which we would be wise to harken, much as Dagger suggests that wise citizens will respect the General Will. *See supra* note 33. While this bears deeper examination, such analysis is beyond the scope of this paper. I am indebted to George Podolin for raising this interesting issue.

⁵⁴ It is axiomatic that “there is nothing sacred from the republican point of view about the state or about the state’s sovereignty.” PETTIT, *supra* note 51, at 152. Some hint of the comparative unimportance of national borders to republican theorists’ views of the relations between men can be found in the letter that Thomas Jefferson wrote to Gouverneur Morris, the U.S. Minister to France, on December 30, 1792. *See* THOMAS JEFFERSON, WRITINGS 1001-1003 (The Library of America 1984). In it, Jefferson suggests that it might be possible to grant “a complete exchange of citizenship” with all French citizens on the grounds of “mutual good offices, mutual affection and *similar principles of government.*” *Id.* at 1003 (emphasis added). Jefferson thus seems to be proposing bonds of citizenship (and their attendant mutual responsibilities) across national borders on the grounds that the people had governmental and ideological common ground. This is a large step toward a broader view of a common citizenship of all mankind, irrespective of country of origin.

⁵⁵ As discussed more fully, *infra* at note 59-60 and accompanying text, republican theorists since Montesquieu have believed that there is a maximum size that republics can achieve. For this reason, republicans would be unlikely to accept a global citizenship as such. However, the same thing can be accomplished, consonant with republican thought, where global citizenship (e.g. membership in the human race as a whole) is understood as an addition to, rather than a replacement for, national citizenship. This familiar solution would fit Montesquieu’s solution to his own conundrum, the confederate republic and was adopted by the Founders. THE FEDERALIST NO. 9 (Alexander Hamilton).

spirit itself – so long as it is free from injustice. For that single virtue is the mistress and queen of virtues.⁵⁶

For purposes of reference, this view will be called the “Borderless World” theory, since according to it the typical national borders (even those separating republics from other states) have no meaning and the fellowship of man is predominant.⁵⁷

Both the Borderless World and Global Republic theories raise the question of the scope of the republic. Indeed, this question has received significant attention in republican theory.⁵⁸ For instance, *Federalist 14* is wholly devoted to the question. According to Madison, the natural limit of a republic is “that distance from the center which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs.”⁵⁹ By this definition, the entire world could indeed constitute a republic.⁶⁰ While it may seem odd to list these duties as those of a citizen, rather than those of the human being, this distinction is not a sharp one and the dictates of justice apply equally to both. Indeed, in a Borderless World, these duties fully conflate,

⁵⁶ CICERO, *supra* note 46, at 10.

⁵⁷ Although there may be variance at the margins, the policy prescriptions stemming from the Borderless World do not generally differ from those in the Global Republic, since the virtuous citizen would understand that if the republic has a duty to do something, it is her duty as a citizen to make sure that the republic acts in accordance with that duty (i.e. acts virtuously). She would therefore vote for representatives who would ensure that the duty is met. Those representatives will in turn keep faith with those who elected them and will direct the republic’s policy toward meeting its fundamental duties. This idea, that the citizen will understand the republic’s duties and will vote in accordance with them, and that the republic would understand its place in the world and act in accordance with it, will hereinafter be referred to as the Transitive Property of Republican Duties.

⁵⁸ With respect to the Borderless World, the question is whether one can meaningfully be a co-citizen with a person of a different political or social background and possibly thousands of miles away. With respect to the Global Republic, the question is both how large a global confederate republic can be and how large its constituent republics can be.

⁵⁹ THE FEDERALIST NO. 14, 69 (James Madison).

⁶⁰ In Madison’s time, the journey from Boston to Philadelphia (and later Washington, D.C.) would have taken days if not weeks. By contrast, there are few capital cities in the world today that cannot be reached in 24 hours by commercial airline and, one imagines, none which could not be reached that quickly by an aircraft chartered for that purpose. Furthermore, modern communications even make it possible for leaders to instantaneously communicate with one another or with their citizens across vast distances.

In a global confederate republic, the fact that local governments would be retained further erodes any potential grounds for grievance, as it did in the time of the Founders. FEDERALIST 14, *supra* note 59, at 70. With respect to the Borderless World, it should be noted that its logic does not dictate that the whole world become a single republic *in government*, but rather that duties extend from person to person, regardless of distance.

although duties are still owed more strongly to those of local citizenship or closer in relation.

It is possible to entirely reject the *Federalist* formulation and to argue that any republic or extended connection between people who are not citizens of the same community is impossible (or at least un-republican). However, this begs the question of who is in the community and who is not; the determination of which is an inherently dangerous exercise. For example, the most convenient and most often applied community boundary seems to be the state border.⁶¹ However, on a theoretical level, it is difficult to understand why a first-generation Mexican-American immigrant living ten miles from the Rio Grande has a greater duty to an Alaskan than to someone just across the border, or in Mexico City, or even Cuba, simply because she is a citizen of the United States.⁶² Similarly, it is difficult to understand why a duty is owed to a neighbor one day, but if the map lines are redrawn, suddenly, it is not.⁶³

It is also possible to treat the republic as serving only its own citizens, an island floating amongst other nations, touching none and being touched by none. This concept is flawed for several reasons. First, it rejects the Ciceronian and Daggerian connection between men. More importantly, though, it also offers little insight into how a republican state would act, other than to leave it to some kind of realpolitik calculation of costs and benefits, a view-

⁶¹ This is true writ small as well, with respect to borders between communities, counties, and states within the U.S. or their equivalents in other countries.

⁶² Similar examples exist for other possible categorizations. With respect to race, a white steel worker in rural West Virginia is likely to have more in common with a black steel worker in the same plant than with a white executive in Silicon Valley, despite their shared skin color. Likewise, a Jewish investment banker in New York is likely to have more in common with an Presbyterian investment banker in the same city than with a kibbutz farmer in southern Israel, though the latter says the same prayers in synagogue. This kind of analysis can be used on almost any single category. Attempts to fashion communities out of multi-category groups (a republic of only white Catholics) will succeed or fail based on the specificity of the categories in question, but generally risk both pernicious irrationality in group selection and a sub-optimal size, given the modern transportation and communication technologies discussed above.

⁶³ One can imagine this difficulty being particularly acute in sub-Saharan Africa or in other disputed territories, or in confederated states in which great emphasis is placed on local or sub-national government. An additional benefit of keeping reciprocal duties unlimited by race, religion, or nationality is that it avoids the natural temptation for a citizen to attempt to benefit those most like her. Although a citizen of civic virtue would ignore this temptation, the ideal system would remove it altogether.

point at odds with most republican thought.⁶⁴ Furthermore, this probably does not accurately reflect behavior of republican states.⁶⁵

In sum, in an ideal republic, citizens view themselves as having duties to promote the autonomy and protect the fundamental liberty of other citizens. Under the Borderless World view, these duties extend worldwide, without regard to national sovereignty. Under the Global Republic view, although these duties may be somewhat more limited, virtuous citizens will drive their government to fulfill its obligations to other states. Thus, either way, a virtuous republic will make its foreign policy choices as its citizens make their choices domestically, with effects that should be discernible and predictable.

B. *The Reasons Republics Will Tend to Intervene*
Autonomy and the Problem of State Sovereignty

Although some humanitarian military interventions may be conducted with the permission, or even support, of the local government, most interventions will involve crossing into a state against its will (as defined by the decision expressed by the acknowledged sovereign). Therefore, a decision to intervene is normally predicated upon a determination that either the local

⁶⁴ For example, to Cicero, the extent to which one measures actions totally by his own advantage is the extent to which one falls short of being good. CICERO, *supra* note 52, at 114. Other republican thinkers have similarly rejected a mere calculation of pleasure and pain or personal cost and benefit in making decisions. Indeed, civic virtue would be a hollow concept if it stood for nothing more than merely doing what was pleasurable or convenient.

This is not to say that republican thinkers are impractical or oblivious to practical concerns, however, where theory did not compel a particular result. Machiavellian republicanism was explicitly unconcerned with ungrounded ideas; its lessons are all parables and half-retouched histories. The Founders of the United States for the most part did not write for a disconnected intelligentsia; while their arguments were often for elite consumption, they were almost universally directed at the practical issue at hand, whether it was the passage of the U.S. Constitution or a later, if no less fundamental, question of governmental policy. To utterly disregard the more practical republican arguments in favor of humanitarian military intervention, then, would be to set aside two of the great collections of republican thinking and two of the principal sources of literature addressing republican foreign policy.

⁶⁵ To the extent that the United States is a republic, it would be hard to explain (without resorting to heavily weighting things like "moral benefit," which are difficult to measure and impossible to meaningfully refute) the U.S. interventions in Somalia and Yugoslavia. However, it would explain the United States' immediate withdrawal following bloodshed in Somalia and its failure to intervene in Rwanda.

government no longer exists, as in Somalia I, or upon the decision that the local government's decisions no longer command deference, as in Yugoslavia. Regardless, states are more likely to intervene when their internal norms are less concerned with state sovereignty, or when they incorporate a component of legitimacy (however defined) into their understanding of sovereignty.

At first blush, one might think that the republic's respect for autonomy would carry over into a strong respect for national borders. However, as noted above, "[t]here is nothing sacred from the republican point of view about the state or about the state's sovereignty."⁶⁶ Rather, the republican state is focused on *individual* citizens and their *individual* autonomy. Here, one must focus on the reciprocal nature of the right to autonomy and the attendant imposition of affirmative duties on the part of all members of the community. The republican state, like its citizens, has an affirmative duty to protect and, if necessary, foster, autonomy to a baseline level.⁶⁷ Thus, to a virtuous republic, there is an affirmative duty to

⁶⁶ PETTIT, *supra* note 51, at 152. This is particularly true of states holding the Borderless World view, which embraces all of humanity as fellows and thus is not likely to be concerned with "artificial" sovereignty distinctions. The position of Global Republic followers is less clear, since where the *states* are themselves citizens, a norm of non-intervention (on the grounds of the right to be free of bodily injury) could prevail. For the reasons detailed below, though, the right to be free of bodily injury is a double-edged sword and may well make for very active interveners.

⁶⁷ One might argue that the reciprocal right to autonomy is predicated on both parties joining the social contract. To the extent that autonomy exceeds the baseline right to liberty, e.g., to the extent that it is a "special" right, this is correct. However, republican liberal theory asserts that the basic right to liberty is a human right, not a civic one. Accordingly, the fellowship of mankind dictates fostering autonomy at least at the baseline level of liberty.

As Dagger points out, the level of this duty may vary, depending on circumstance. His example is that Canadians may be able to affirmatively demand from other Canadians a right to hemodialysis as a derivative of the right to health care, which in turn is derivative of the right to autonomy. See DAGGER, *supra* note 33, at 35. Not everyone in the world, he argues, has "reasonable access" to hemodialysis and so not everyone in the world can demand it as a derivative right. *Id.* This argument establishes a formula by which autonomy rights claims may be tested. Note that Dagger's test contains no element of nationality or proximity. Thus, those aspects of autonomy which are both fundamental and widely available might not have their rights-claims limited by politics or distance. For example, in the modern world, it is difficult to argue that there are people in the world who have no "reasonable access" to food and water. Note, however, that this is a statement of theory, not one designed to reflect the practical realities of, say, acquiring food in the U.S. without an income, notwithstanding the considerable "social safety net" programs operating in many modern states.

For example, take the famine in Somalia I and II, where one could possibly think that no reasonable access to food existed. This argument was mooted by the provision of humanitarian aid; once the food is available for dispersal and dispensing, there is "reasonable

fulfill this right; reciprocity demands that the republic and her citizens must come to the aid of one without autonomy.⁶⁸

The foreign citizens' claim to reciprocal duty is even stronger in a genocide setting like Rwanda or Yugoslavia. There, the right challenged is not derivative of the right to life, but rather, *is* the right to life and the basis of even a general right to liberty. Absent practical difficulties making intervention impossible, republican philosophy demands that the republican citizen protect fundamental human rights. Because these are aspects of the general duty to liberty, and not a special duty, it is not necessary for the parties to be in the same social contract. This is borne out by the aforementioned authors. Cicero's fellowship of man clearly takes the view that distance does not destroy duty. Dagger's example suggests that state borders are not a limitation on duty. Furthermore, the only alternative is to move to the kind of ultimately irrational exercise in line-drawing discussed above.⁶⁹ Where another's rights are threatened, and particularly where the fundamental right to life itself is attacked, the reciprocity of rights makes it incumbent upon each person to support the besieged party. No republican citizen of virtue could let national, ethnic, or religious lines prevent her

access" to it. The problem in a Somalia I or II scenario is not that there is no food available, but rather that the food is being interdicted by hostile parties. For a republican state looking at this, there are two clear autonomy violations. First, the people have no power to self-actualize, since they are without even the baseline necessities of life. Second, the hostile powers are using the food as a weapon to command obedience. In such cases, there is a clear violation of the right to non-domination, the negative liberty reciprocal to the affirmative right to personal autonomy; a dominated person, by definition, lacks free will. Although a Somali might not be able to assert a right to hemodialysis and require that a Canadian provide it, she could certainly assert a right to food where that food has been provisioned for her.

⁶⁸ This is true whether one ascribes to the Borderless World view or the Global Republic theory. To the citizens of a Borderless World republic, the intervention is a personal act, based on a personal duty to foster the starving person's autonomy. The citizen uses the republic as a tool to fulfill this duty. In a Global Republic republic, the citizen does not perceive such a personal duty. However, the republic itself has a duty as a global citizen to foster the autonomy of other states. Since a failed state by definition lacks autonomy (*see supra* notes 67, 71, 73, 76-78), the republic has a duty to foster the other state's autonomy by helping its people survive the crisis intact. The virtuous republican citizens, recognizing the Transitive Property of Republican Duties (*see supra* note 57), will choose to intervene as an act of civic virtue. Thus the Global Republic and Borderless World republics will both intervene, but for somewhat different reasons. In this way the Transitive Property of Republican Duties implies that citizens of a virtuous republic in the Global Republic setting will act out of national civic virtue in the same way that they would act as a matter of personal civic virtue in the Borderless World.

⁶⁹ *See supra*, pages 17-18, notes 61-63.

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from fulfilling her duty to the endangered person. Similarly, these individuals will ensure that their elected officials represent them in this respect and, thus, that the chosen government will be an aggressive intervener.

Moreover, there is no reason to believe that a republican state would respect the sovereignty of any state that did not meet the first order condition of the social contract, e.g., that autonomy be preserved.⁷⁰ This is the baseline minimum for a state to be recognized as legitimate by its republican peers. While it is possible to interpret state autonomy to allow for any course of conduct that state selects, the idea of an atomistic world is foreign to virtuous republican citizens, who think in terms of reciprocal rights and reciprocal obligations. No other-regarding republic is likely to ignore the central reality of the situations which call for intervention – the people of these states generally have little voice in their oppression.⁷¹ To refuse to intervene on the grounds of self-determination would therefore be foolish.

⁷⁰ It should be noted that “respect” is used in the theoretical sense. This statement does not imply that the republican state’s diplomatic corps would refuse to recognize such a state, or that it would refuse to conduct trade or sign treaties with that state. There are critical practical reasons to do these things and a host of others. Rather, the statement is limited to the republican state’s appreciation of the legitimacy of the other government. Accordingly, even while transacting international political and economic business with a non-autonomy-fostering state, the republican state would refuse to acknowledge a legitimate claim of authority by that government.

⁷¹ This is only logical; if the people did, they would have fixed the situation. At the very least, they would have requested the aid, eliminating the need for *military* intervention. The exception here is a state overrun by bandits or warlords; even if the people have a say in government and were able to successfully demand that it allow humanitarian intervention, a military presence might still be required to protect the humanitarian aid. However, such a state would by definition be a failed state, incapable of fulfilling its purpose. A republic would be unlikely to give great weight to the opinions of a government unable to protect the unalienable rights to life and liberty.

There is one notable exception to this principle. In a republic, the majority of the citizens may decide not to allow *any* of the citizens access to a particular good. This exception obtains only where the majority denies everyone the good, not where its denial covers only a minority of the people (e.g. where the 90% votes that no portion of a benefit is to go to the 10%). For example, a theocratic republic might forbid doing business on a particular day of the week, a law which unquestionably abridges autonomy by restricting the realm of choice. Nevertheless, it is unlikely that a virtuous republic would move to intervene on behalf of those prevented from working. The respect for autonomy necessarily includes a respect for the majority’s determination of the general will, even if that determination disagrees with your own.

It is less clear whether this exception would apply to the denial of a benefit essential for life itself, like food. However, any state practicing such rigorous self-denial would cease to exist rather quickly.

Accordingly, if a state is failing to respect core values of autonomy and non-denomination, the virtuous republican state would be more inclined to intervene, or, at the least, to leave the decision to a virtuous international decision-making authority, whose decision would obtain irrespective of the abuser state's will.⁷²

*The Transitive Property of Republican Duty and the
Global Republic*

One of the core tenets of republican thought is the state's duty to help its citizens become virtuous. Indeed, the state can only be virtuous itself when the citizens are virtuous (and vice versa). The republic's position in the Global Republic view is akin to that of citizens in the republic itself. This means that the virtuous republic will behave with respect to its fellow states as the virtuous citizen behaves with respect to her fellow citizens. In a case of humanitarian military intervention, the target state is not fully self-actualizing.⁷³ In the case of the citizens of a republic, each has an affirmative duty to help the other self-actualize. For example, if a virtuous citizen's neighbor is hurt or starving, the citizen must help provide medical care (the republican theoretical basis for Medicare) or provide food (food stamps, TANF, etc.). Similarly, if a state-citizen of a global republic, like Somalia, is in need, then the other state-citizens of the global republic must act to help it recover, because they have similar obligations to those of their citizens to help the non-actualizing member of their community recover. The individual citizens of the virtuous republic will recognize this national obligation and will vote for those representatives who understand it. These representatives will then structure a response designed to foster the autonomy of the embattled state, using force where necessary.⁷⁴

⁷² "[I]t might be quite a good thing from the republican point of view that various domestic issues" should be internationalized, particularly where the international decision-making body is republican. PETTIT, *supra* note 51, at 153.

⁷³ In some examples, difficulty is caused by forces beyond the state's control, particularly natural disasters. However, while these states may require humanitarian aid, they should not require *military* intervention. The need for force implies either resistance by the state itself or by local populations that the state is unwilling or unable to control. In these situations, the conclusion must be that the state is not fully realizing its potential. This argument is much stronger in failed-state scenarios and humanitarian crises like Somalia I and II than it is for Yugoslavia-type scenarios.

⁷⁴ See *supra* note 39.

It could be argued that this fails to explain adequately republican intervention in Yugoslavia-type situations. However, this latter critique ignores the concept of a general right to be free from bodily assault.⁷⁵ For example, take a virtuous republican citizen whose neighbor is a domestic abuser. Even though each citizen is autonomous, it is the citizen's duty to intervene, because the neighbor's wife has a right to be free from bodily assault, and this is a right with a corresponding duty on the part of all citizens.⁷⁶ This domestic situation is analogous to peacekeeping operations between nations, the object of which is strictly the prevention of war.

Peacekeeping interventions of this sort differ from Rwanda-type operations in that they involve two separate sovereign states, while Rwanda-type operations are directed at a single state attacking its own citizens. However, even under the Global Republic view, republics will still intervene in Rwanda-type situations. If a virtuous citizen's neighbor has a mental condition which results in self-mutilation, the citizen must act to help prevent this mutilation, since it is not a true exercise of autonomy.⁷⁷ In much the same way, no rational general will could lead to parts of a state mutilating other parts of the state. Thus, the republic will intervene to help its co-citizen in the Global Republic regain *its* autonomy.⁷⁸

Furthermore, by intervening in far-away lands, a Global Republic will remind its citizens of the importance of self-sacrifice to foster autonomy. The citizens, who themselves decide to sacrifice to intervene in far-away lands, have practiced civic virtue on an

⁷⁵ See DAGGER, *supra* note 33, at 22 and 32, noting that this right is generally, if not universally, accepted.

⁷⁶ *Id.* at 30-31. Again, because this is a general right and not a special one, it is binding even with respect to those who are not citizens of the republic. It bears noting, though, that additional special rights of this type could also be imposed, with corresponding liability placed on non-interveners. This is the case for physicians and others who become aware of child abuse, for example.

⁷⁷ This principle is reminiscent of ARISTOTLE, *POLITICS* I:6 (C.D.C. Reeve, trans. Hackett 1998). One could argue that self-mutilation is not irrational, but the stronger argument by far is that it is.

⁷⁸ The Borderless World theory reaches the same result, but through a much more direct logic. Since a duty is owed by each of the republic's citizens to preserve the autonomy of the Rwandan citizens, intervention is required to prevent their slaughter. It is important to note, though, that in neither view is the republic concerned with the will of the contemporary government of the target state. One imagines that it would argue that whenever a government becomes destructive to the preservation of the inalienable right to life, it is the citizens' rights to overthrow it. When some pathology in the government renders them unable to do so, like the mental defect that leads to self-mutilation, it is the duty of the other citizens (or citizen-states) to assist them in overcoming the defect.

international scale. This kind of exercise is likely to instill civic virtue at home; the same citizens who are willing to shoulder the expense and risks of humanitarian military intervention abroad seem likely to act in an equally virtuous, or more virtuous, fashion in their own backyards. The reverse, however, may not be true, making the republic's intervention abroad doubly important.

*Republican Perspectives on Intervention and World Stability*⁷⁹

There is an additional wholly different kind of reason that republics should be interveners – republics like to make more republics. There are both practical and theoretical reasons behind this desire. On the theory side, while people generally want others to adopt their form of government, this is especially true for republicans, whose theory of government is rooted in their core beliefs about human rights and human excellence. This preference borders on duty, since there is a duty to ensure autonomy, which republicans believe is best done in another republic. If humanitarian military intervention is the best mechanism for accomplishing that, then the republican state will choose to use it where practicable.⁸⁰

Turning to the practical, one encounters democratic peace theory. It is beyond this article's scope to completely describe and evaluate democratic peace theory, but its basic tenet – that liberal democracies will not war with other liberal democracies – has significant empirical support.⁸¹ Peace-loving states favor policies which tend to lessen the potential number of enemies they face. If one accepts democratic peace theory, then, republics will seek to create other republics, states with whom they will not war. Furthermore, the effect of the creation of a single new republic on

⁷⁹ Although this section will not engage in an in-depth empirical or technical analysis of intervention and world stability, it should be noted that the National Defense Panel found that among the “main threats to global stability” was “the destabilizing effects of demographic, economic, and social trends” toward state collapse. National Defense Panel, *Transforming Defense: National Security in the 21st Century* 19 (1997), at <http://www.fas.org/man/docs/ndp/toc.htm>. It also found that a “proactive policy to foster regional stability . . . should be viewed as an essential component of U.S. national security.” *Id.* at 29. The goal of humanitarian intervention, military or otherwise, is to head off destabilizing forces by the use of a proactive policy.

⁸⁰ The reasons to believe that humanitarian military intervention does in fact help create republics are discussed *infra*.

⁸¹ For these limited purposes, one can postulate that liberal democracies are ideal republics.

world stability is even greater.⁸² Republics will value peace for the same reasons other states do, both practical (commerce, international relations, and the risk that a conflict will expand) and theoretical (war is not generally good for citizen autonomy). Thus, if humanitarian military intervention helps create republics, republics will favor humanitarian military intervention for that reason.⁸³

Nonetheless, in order to make the foregoing discussion meaningful, it must be shown that humanitarian military intervention does, in fact, help create republics. There are several reasons to believe that it does. First, there is good reason to believe that there will rarely, if ever, be the need to intervene militarily in a democracy. The rationale is that the people, seeing the suffering, will welcome aid, removing any need for military support.⁸⁴ Moreover,

⁸² If it is true that liberal democracies will not fight one another, the creation of a single such state creates a strong presumption of peace with all other liberal democracies. Thus in a given system there are at least $(n-1)!$ presumptively peaceful bilateral national relationships, where n is the number of liberal democracies in that system. While this means only six such peace-relationships if there are four liberal democracies in a system, it means that in a system of five liberal democracies there will be ten and one of six liberal democracies there will be fifteen. On a more realistic scale, it means that in a system with fifty liberal republics, the addition of a single new liberal democracy creates fifty fewer possible conflicts about which a state needs to be concerned.

⁸³ It must be noted that at least some ostensible republicans reject democratic peace theory as a grounds for justifying republican government. In *THE FEDERALIST NO. 6*, Alexander Hamilton rips apart the idea that republics will not war with other states, asking rhetorically, “Are there not aversions, predilections, rivalships, and desires of unjust acquisitions that affect nations as well as kings?” and noting that “There have been. . . almost as many popular as royal wars.” He also explicitly rejects the contention that economic relationships and suggests that all commerce has done is “change the objects of war.” For evidence, he cites the ancient wars of Athens and Carthage, both commercial republics. Proponents of democratic peace theory cite more modern examples.

It should also be noted that by including a goal of making other states republican into the umbrella of “humanitarian” aims, one may do violence to the concept of “humanitarian” intervention (as opposed to political intervention). Although some conflation of the concepts is likely, as demonstrated above, when republics intervene with republic-making in mind, they are acting out of a combination of practical and theoretical motives. However, the practical motives, as viewed through democratic peace theory or a desire to pareto-optimal economic exchanges, may be founded in theoretical understandings.

⁸⁴ Genocidal states like Yugoslavia are the exception to this rule, but both theoretically and historically, democracies are much less likely to become genocidal states than are autocracies. One could envision a state in which a majority group might attempt to misallocate aid, taking it from minority groups. However, the republic would not recognize that decision as an act of majority will, rightly conceived, and would intervene to prevent the violation of the individual autonomies of the minority group citizens. *See supra* notes 71-78 and accompanying text. It is important to note many democratic peace theorists would not include a majority-abuser state in the theory’s penumbra, since it does not respect the core (e.g. liberal) human rights. Whether one includes such a state or not, however, hu-

states in which citizens lack autonomy cannot be republics. Thus, an intervention that fosters autonomy creates the possibility of a republic emerging where none existed before. Furthermore, republican interventions are likely to be conducted with the objective of republic creation in mind. For example, Somalia II interventions aim to re-establish the basic elements of civil society, but what form that society takes depends on who is doing the establishment. Helping to rebuild states in a Somalia II intervention gives an intervener tremendous opportunities to impart the republican way of thinking and acting. One needs only to look at the changes in the Japanese government and culture after 1945 to see the possible effects of intimate exposure to a democratizing state-builder.⁸⁵ This kind of effect is not limited to Somalia II interventions, however. The revolution ousting President Milosevic was a tentative move toward democracy undoubtedly made possible by the U.S./U.N. intervention in that conflict. Even without making any active effort, though, humanitarian interventions can have democratizing effects. For example, an intervention force led by, or composed substantially of, women could have lasting effects on the local perception of the female's place in society. Likewise, during a military intervention, the refusal to use force oppressively could transmit the republican belief that "might does not make right." Even the mere presence of republicans of virtue, discussing their state's history and its view of the world, could foster and shape local thinking about human rights and the proper role and shape of the government. While these passively-planted seeds would take much longer to bear fruit than the active indoctrination of values present in Somalia II operations, they nevertheless foster republican thinking in the local state.

Revolution Theory and Republican Stability

Another reason to believe that republican humanitarian military interventions create more republics is based on Hannah Arendt's observations of the French and American Revolutions. Arendt's *On Revolution* attributes the failure of the French Revolution to the "distraction" caused by the old world's abject

manitarian military intervention will more often be found in non-democratic states than in republics.

⁸⁵ While Japan was not a failed state by any means, the power accorded the United States as victor is no more than it would have had (under U.N. auspices), had its intervention in Somalia II resulted in success.

poverty of the masses.⁸⁶ The poverty of the European working class was coupled with an “invisibility,” where the citizens of Europe routinely overlooked the poor and disregarded their concerns.⁸⁷ By contrast, she argues, the American Revolution succeeded because the fundamental republican bedrock prevented this kind of economic and socio-political alienation. She observes that upon seeing the condition of the people of Europe, Benjamin Franklin “found himself often in Paris thinking ‘often of the happiness of New England, where every man is a Freeholder, has a vote in publick Affairs, lives in a tidy warm house, has plenty of good Food and Fewel . . . ’”⁸⁸ Where citizens have both a voice and some land of their own, she argues there could be none of the alienating and invisible poverty of Europe. Thus, “the direction of the American Revolution remained committed to the foundation of freedom and the establishment of lasting institutions, and to those who acted in this direction nothing was permitted that would have been outside the range of civil law.”⁸⁹

This stability is important to the study of revolutions generally, but also to the lasting importance of humanitarian military interventions. To the extent that these interventions foster autonomy and individual rights, Arendt’s work suggests they also set the stage for successful revolutions. Arendt’s emphasis on individual property and influence of local government roughly tracks Richard Dagger’s emphasis on autonomy as the cornerstone of a republic. Essentially, Arendt is saying that the impoverished masses of Europe lacked the requisite preconditions to achieve autonomy. Without the promise of true autonomy, the revolution was doomed.⁹⁰

⁸⁶ See HANNAH ARENDT, *ON REVOLUTION* 61 (1965).

⁸⁷ *Id.*, at 69.

⁸⁸ *Id.*, at 67. In addition to the well-documented role of town meetings in fostering American civic virtue, it should be noted that grand juries in their earliest forms were not merely the indicting bodies they are today (though they were that also). Instead, they directed policy initiatives, conducted independent criminal investigations, and handled many aspects of public administration. See Ronald F. Wright, *Why Not Administrative Grand Juries?*, 44 *Administrative Law Review* 465, 465-81 (1992). Wright’s conclusion is that “grand jury service educated the jurors about the nature of their political institutions and fostered a sympathetic attachment between the jurors and their government.” *Id.* 479. This led supporters to conclude that colonial grand juries increased civic virtue. *Id.* This provides still another example of the importance of civic structures on fostering republicanism, which in turn is a reminder of the importance of introducing republican civic structures to those unexposed to them. I am indebted to Akhil Amar for this observation.

⁸⁹ ARENDT, *supra* note 86, at 91.

⁹⁰ This concept, not made explicit or as completely theorized, seems to underlie Jefferson’s discomfort with the revolutions in South America, which he was concerned would

A republic that seeks world stability, then, as most republics will for the reasons noted above, seeks either to prevent revolution at all or to create a single successful one.⁹¹ Thus, where a revolution is ripe to occur, it is in the interest of stability for potential intervener republics to ensure that the pre-conditions for *successful* revolution are met. Fostering citizen autonomy accomplishes this outcome, creating conditions under which either revolutions will not occur or under which they will be stable. This adds to the already powerful incentive republics have to intervene.

*Making Friends and Influencing People: Reversing the
Somalia Syndrome*

In addition to fostering national, regional, and global stability, humanitarian military intervention is also attractive to republics because of its potential as a foreign policy device. Aggressive humanitarian aid can signal national wealth and power without alien-

fail. Jefferson largely blamed the power held over the people by the Church, suggesting in a letter to Alexander von Humboldt in late 1813 that while the South Americans would achieve independence from Europe, "history . . . furnishes no example of a priest-ridden people maintaining a free civil government." JEFFERSON, *supra* note 54, at 1311. His letter to von Humboldt in mid-April of 1811 makes the same assertion and expresses the same concern that the revolutionaries lacked sufficient autonomy to create a stable republican government. *Id.* at 1247. Likewise, Jefferson commented in a letter to John Adams in January of 1821 that he did not believe that the Roman republicans in the time of Caesar, including Cicero, could have achieved their goals, since the people were so "demoralized and deprived as to be incapable of exercising a wholesome control." THOMAS JEFFERSON, *POLITICAL WRITINGS* 225-26 (Joyce Appleby and Terence Ball, eds. Cambridge Univ. Press 1999). Jefferson thus seems to have accepted the idea that the absence of autonomy or the presence of domination makes a stable revolution impossible.

⁹¹ While one would not ordinarily suggest that a revolution contributes to short-term national stability, over the long term, it may. Where the government is unjust or oppressive, a cohesive revolution could potentially create significant gains. For example, one needs only turn to South America, where several nations have, in recent years, experienced a series of coups and counter-coups that have resulted in shattered governments clinging to power and that have on occasion led to ongoing civil wars. In these states, a cohesive, unified and successful revolution would dramatically increase national stability. Likewise, Jefferson famously believed that even in a republic, it is sometimes necessary to have smaller revolutions to correct problems or more radically change the direction in which the country is moving. While these revolutions can be significantly destabilizing in the immediate term, over time they act as a safety valve for discontent, prevent larger-scale unrest and lead to greater national stability. This national stability leads to regional stability since stable states tend not to war as frequently as unstable ones, particularly those unstable ones governed by a single leader. Furthermore, the presence of an aggressive government (like Iraq under Saddam Hussein) promotes accelerated regional armament, escalated force postures, and demands a defensive, militaristic mindset in otherwise diplomatic settings, all of which contribute to regional destabilization.

ating other countries. Cicero notes that “we are compelled by nature” to love those who possess a reputation for virtues including liberality and beneficence.⁹² Although there are times when giving money might be enough, liberality and beneficence are more virtuous (and therefore more powerful) when concretized in action.⁹³ Similarly, Machiavelli strongly advocates showing kindness to other nations, even in war, as a practical way of forging friendships with them.⁹⁴

Ideally, no military force would be necessary, but where it is, it is unlikely that local citizens would hold it against the intervener-republic, since they will largely be accustomed to the necessity of force to protect the aid.⁹⁵ Virtuous republics will have learned the lessons of Machiavelli and Cicero, and thus will understand the power of gesture to the recipients. Seeing valuable gains to be made by connecting with the citizens of other countries, they will intervene frequently.⁹⁶

⁹² See CICERO, *supra* note 46 at 75.

⁹³ *Id.*, at 83.

⁹⁴ See NICOLÒ MACHIAVELLI, *THE DISCOURSES ON THE FIRST DECADE OF LIVY* III.20 (Bernard Crick, ed., Leslie Walker and Brian Richardson, trans. Penguin Books 1970). There, Machiavelli relates the story of a treacherous schoolteacher in the Faliscan city besieged by the Romans. This teacher led his pupils, sons of many of the Faliscan leaders, beyond the city walls and offered them to the Roman commander, Camillus, as hostages. Instead, Camillus stripped the teacher and gave the pupils rods with which to beat him as they walked back to town. The citizens of the city, noting “the humanity and integrity” of the Romans, surrendered without a fight. Machiavelli writes that “this authentic incident affords us an excellent example of how a humane and kindly act sometimes makes a much greater impression than an act of ferocity or violence; and how. . . it has been possible to enter [cities that military force could not breach] by displaying common humanity and kindness, continence or generosity.” Likewise, Machiavelli cites the example of Scipio Africanus, who returned a “most beautiful lady, untouched” to her family, facilitating the conquest of Spain.” See also NICOLÒ MACHIAVELLI, *THE ART OF WAR* 179 (Ellis Farnsworth, trans., Da Capo Press 1965) (telling same story). Furthermore, he argues that Caesar’s decision to pay the locals for the wood cut down, to make palisades for his forts, sped the conquest of Gaul. *Id.*

⁹⁵ There is the possibility that in some states there will be a resentment of the “other” exercising force that would not have been applied to a member of the state’s own ethnic, religious, or political majority (or even ruling plurality). While this resentment can be anticipated, it will likely be counterbalanced by the resentment of the ruling group that prevented needed humanitarian aid from reaching the victims and probably will be gradually eroded by the gratitude at receiving that aid. Moreover, an intervener can minimize this resentment, both by the people and by the powerful classes, by following the Machiavellian policy of kindness. In any case, having experienced the breakdown in order, and the attendant need for force to protect even the most basic of necessities, the powerless classes will recognize the necessity of force to protect aid.

⁹⁶ This kind of action would be particularly beneficial (if also particularly dangerous) in places where the republic is held in ill regard by the targeted local populace. Where the

However, as noted above, force will frequently be necessary to accomplish humanitarian goals. This does not deprive interventions of value to the republican thinker. To the contrary, in the modern context of international diplomacy and global commerce, being perceived as strong and virtuous can be critical. Thus, Machiavelli famously advised in Book XVIII of *The Prince* that while a virtuous prince must often act “against faith, against charity, against humanity, and against religion” he should nevertheless endeavor to appear “all mercy, all faith, all honesty, all humanity, all religion.”⁹⁷ In this respect, it is important for the republic to show other states that it is beneficent and strong, because of the value other states place on these virtues, as discussed above. More than that, though, it is necessary that the republic show that it is willing to risk the lives of its citizens and willing to stick its neck out even where its national interest is not directly and immediately implicated. In essence, it is in the republic’s interest to avoid the perception of having acquired a case of the Somalia Syndrome. This is true of its humanitarian aims, in addition to its military ones. The current perception that the U.S. is unwilling to risk loss of life has had a self-evident effect on the policies other states pursue vis-à-vis America.⁹⁸ This perception is particularly crippling because it undermines the power of a threat to use force.⁹⁹ This

republic is disliked, the gains of friendship are much higher and thus republics will intervene even more aggressively. This can mean more than the fact that people generally will not hate the hand that feeds them; as detailed below, a properly-structured force could serve to introduce native populations to republican ideas and to the concept of common humanity.

It should also be noted that even Washington, who famously exhorted America to avoid entangling alliances and to eschew “passionate attachments” with other nations, believed in cultivating “just and amicable feelings” between nations. RICHARD HOFSTADTER, ED., *GREAT ISSUES IN AMERICAN HISTORY: FROM THE REVOLUTION TO THE CIVIL WAR, 1765-1865* 217-18 (1958).

⁹⁷ NICOLÒ MACHIAVELLI, *THE PRINCE* 70 (Harvey C. Mansfield, Jr., trans. University of Chicago, 1985). Although Machiavelli’s point might be that princes, because of this requirement of viciousness and its attendant demand for fraud, are inherently pernicious, there is no reason to believe that he would not attribute like importance to the perception of a republic abroad.

⁹⁸ This may be at the heart of Saddam Hussein’s ill-fated belief that the U.S. would not invade Iraq.

⁹⁹ Machiavelli warns specifically of dangers engendered by a type of “Somalia Syndrome” when he discusses the importance of never yielding to the threat of force in negotiations. First, he suggests that the opponent will think a conceding state weak and seek to extort further concessions from it. Second, he says, “you will find your supporters growing cooler towards you, since they will look upon you as weak or pusillanimous.” MACHIAVELLI, *DISCOURSES*, *supra* note 94, at 313. This same respect for the perception of

danger is particularly acute for republics, where the very citizens whose lives are at risk vote on whether to go to war.¹⁰⁰ While even virtuous republics will rarely commit to large-scale warfare, humanitarian military interventions give them a chance to show their willingness to shed their blood. A state willing to lose soldiers (or especially regular citizens) for purely humanitarian goals is not likely to be thought too cowardly to risk the commitment of forces when the national interest is more directly implicated. Thus, foreign powers will carefully respect the national interests of aggressive intervener-republics. If courage is “the virtue which fights on behalf of fairness,” republics should take any opportunities to fight on behalf of fairness, the better to be thought courageous by both actual friend and potential foe alike.¹⁰¹

A Concluding Note on Practicality

Thus, whether one accepts the Global Republic theory of republican international affairs, the Borderless World theory, or some amalgamation of the two, republican states will be active interveners. It is important to note, however, that this does not mean that a republican state must become some kind of Quixotic enterprise and in service 24/7 as the world’s policeman, heedless of cost or of geopolitical reality. This also does not mean that the U.S. must jump into a war with China over Tibetan freedom of choice, or go toe-to-toe with Russia over Chechnya. Republican theory, to coin a phrase, is not a suicide pact. Rather, this simply means that *where practicable*, republics should be aggressive interveners. It means that they will perceive their own interest as generally lying with the creation of more republics throughout the world. It means that they have a duty to try and maintain an international

other nations is manifest in the FEDERALIST’s proscription that “if [other nations] see that our national government is efficient and well administered, our trade prudently regulated, our militia properly organized and disciplined, our resources and finances discreetly managed, our credit re-established, our people free, contented, and united, they will be much more disposed to cultivate our friendship than provoke our resentment.” THE FEDERALIST No. 4 (John Jay) 16.

¹⁰⁰ This is one of the reasons for the pacifistic nature of democratic states suggested by democratic peace theory.

¹⁰¹ CICERO, *supra* note 46, at 26. There is a danger here that other states will not interpret intervention as a sign of courage, but rather as a warning signal of a greedy state. This problem is ameliorated by the force structure described below, which deliberately employs troops ill-suited to conquest. By using citizen-soldiers whose training and armament is ill-suited to taking and holding land, the republic signals its peaceful intentions without losing the benefit of demonstrating its willingness to go to war.

condition of non-domination and of expansive personal autonomy, the rights of all humans, for all people. While in a given case this might not be possible, autonomy-preserving intervention is the ideal to which these states aspire. The citizens of an ideal republic will vote to intervene because of any of several reasons: they owe a duty to protect the autonomy of each starving person or potential genocide victim, because they want their state to act as they would, because they want to create more republics and a more stable world, and they want other nations to know that they are courageous. Regardless, however, they will act.

III. REPUBLICAN FORCE STRUCTURING

Although by no means the ideal republic in practice, the U.S. is, at least, the archetypal modern republic. It is also the world's most active and influential large-scale intervener. Accordingly, this section will focus on the U.S. as an example of how a republic should, or should not, practice the interventions in Section II. First, Section A will look at how the U.S. has intervened in the past and the lessons that can be drawn from its failures. Section B will lay out a new model for intervener-forces, one designed to compensate for the political and military deficiencies of the current one.

The U.S. has only been actively involved in three humanitarian interventions in the past decade: Bosnia, Haiti, and Somalia.¹⁰² The Bosnian intervention was more military than humanitarian at the operational level; it was conducted against a defined opposing force for the traditional military objectives of defending designated areas and halting an enemy offensive. The situation in Haiti is exactly the opposite: due to the utterly permissive nature of the Haiti operation, the military aspects became almost irrelevant.¹⁰³ Thus, the Haiti intervention, while militaristic, was fought without any of the dangers that are essential for meaningful reflection on this subject.

¹⁰² Excluded from this study are American operations limited to providing transport aircraft and other, similar activities that are conducted by the military but involve little active force projection or risk. While military support of this type is important, it is of a fundamentally different character than planning and executing an interdiction mission using military forces. Also excluded are principally military missions that contain secondary humanitarian elements, such as the war in Iraq.

¹⁰³ While force projection was a key aspect of the Haiti intervention, it was used almost exclusively to coerce a diplomatic settlement sufficiently robust to make actual fighting unnecessary.

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By contrast, Somalia is an ideal subject of study.¹⁰⁴ The mission there gradually changed, but it remained principally and unquestionably humanitarian, at least until UNISOM II,¹⁰⁵ and arguably long afterward. It involved several hostile native forces, but none were organized by the government or had universal popular support. The Somalia intervention called for pacification and state-building in proper proportion, for creative use of doctrine, and for a humanitarian mentality. The U.S. intervention can be judged by its success or failure to adapt to these demands.

A. *The Differences Between Humanitarian and Traditional Military Operations*

In the Department of the Army's manual for low-intensity conflicts, a U.S. Army soldier is quoted as saying "peacekeeping isn't a soldier's job, but only a soldier can do it."¹⁰⁶ This statement crystallizes the fundamental conflict implicit in humanitarian military intervention. While it takes a soldier to effectively intervene in hostile climes, "the forces, training, and equipment used to maintain ready power projection capabilities do not necessarily lend themselves to the requirements of stability operations."¹⁰⁷ Soldiers are not trained to prevent violence through a neutral application of a minimum quantum of force; rather, they are taught to bring their power to bear to achieve an objective swiftly, usually one that directly or indirectly involves the elimination of an enemy unit with reciprocal intentions. Soldiers are trained to operate in a hostile environment where the populace is likely to be hostile, often to the point of blurring the lines between civilian non-combatants and opposing soldiers.¹⁰⁸ Traditional military operations are aimed at destroying resistance forces and taking and holding territory. To the extent that they have anything to do with the ci-

¹⁰⁴ This section will deal with both Somalia I and Somalia II.

¹⁰⁵ UNISOM II refers to the second phase of the crisis, known in this paper thus far as Somalia II.

¹⁰⁶ Department of the Army, *FM 7-98: Operations in a Low Intensity Conflict*, Washington, DC (October 19, 1992), at 1-4, available at <http://www.globalsecurity.org/military/library/policy/army/fm/7-98/f798.htm>.

¹⁰⁷ *Transforming Defense*, *supra* note 79, at 24.

¹⁰⁸ This problem has been particularly acute for the American forces operating in Iraq, where the principal resistance has been from less organized, but no less deadly *fedayeen* commandos and other "irregular" forces, including members of the terrorist organization Al Qaeda. Similar guerilla resistance is predictable in most failed states and in many Islamic states, where radical clerics suggest this form of warfare and where the formal state military has little chance of military success in traditional battlefield warfare.

vilian population, the objective is self-defense through forceful pacification, not creating, maintaining, or even preserving any part of civil society. By contrast, in a humanitarian intervention, there is generally no set territorial objective. Even where there is a defined opposition force, which is not always the case, engaging it may be forbidden. The generation and maintenance of good will is often the critical step in successful completion of the mission. As often as not, being forced to take and hold territory is a sign of failure, not success.

In light of these differences, it is puzzling that the U.S. military continues to rely on traditional wartime units and methodologies in its execution of humanitarian operations. The 82nd Airborne, the 101st Airborne, and other U.S. Army Ranger battalions are the first deployed in a humanitarian military intervention and are often responsible for the entire operation. However, these elite units are trained for more traditional missions. They can marshal on short notice, strike quickly, subdue any opposition, and create toeholds for other, slower-deploying forces.¹⁰⁹ Similarly, other nations also rely on their regular armed forces, although their militaries seem to be better prepared for lower-intensity conflicts than their American counterparts.¹¹⁰

¹⁰⁹ The deployment of these units, upon whom the Army relies to respond first in traditional military crises, risks rendering them ineffective at their principal mission. First, any attempts to use these units after they are deployed on an intervention is slowed by the need to re-muster the forces from their dispersed locations in the intervention target state. Secondly, these units may need to be refitted with the equipment for their new mission, since the tools necessary for taking and holding territory may be quite different from those necessary to deliver rice or to re-build civil institutions. For example, large-scale water purification equipment, a potentially critical part of a humanitarian intervention, might be largely unnecessary in a normal airborne deployment. Likewise, the full body armor, anti-aircraft equipment, and armored vehicle support critical to success on the modern battlefield might be simply extra tonnage for a humanitarian deployment. Third, intervention-deployed units would be more fatigued than those that are at their home bases. Finally, the potential that they would be deployed on humanitarian missions would necessitate more frequent heightened alerts, further wearing down the troops, whether they are ultimately deployed or not.

¹¹⁰ Particularly exemplary in this respect is the French military, whose years of counter-revolutionary operations pay dividends in the similar climate of humanitarian military interventions. With respect to peace-keeping and state-building joint ventures, however, the best exemplars are the Australians, whose police-building strategy in Somalia should be a model for future operations. While evaluating the effectiveness of the many nations in each of their interventions would make a fascinating study, it is beyond the scope of this analysis. Rather, this section will focus on the effectiveness of the U.S. intervention strategy, with reference to the French and Australian experiences where appropriate.

The manner in which America intervened in Somalia is instructive of this difference, and of the potentially-disastrous effects that the failure to understand it can cause. Gerard Prunier, a French strategist and analyst, summarizes the American approach in Somalia as “overequipped, security conscious, and psychologically tense.”¹¹¹ The evidence for this claim is not hard to find. Among the indelible images of the Somalia operation is that of the first American troops coming ashore, loaded to bear in full combat harnesses, rifles, flak jackets, and helmets, pulling their dingys ashore . . . and then navigating a minefield of power cords and combating an army of reporters, the only opposition they faced. This sort of security-minded caution would dominate the entire operation. American troops traveled in trucks, and often in convoys. Wherever they went, they were fully geared out and loaded with the recommended countermine equipment, intelligence systems, communications systems, night vision headsets, surveillance systems, body armor, cameras, and sensors.¹¹² In fact, *Lessons Learned* notes with some pleasure that “battle drills, situational training exercises, weapons and NOD zeroing, and fire and maneuver training while wearing flak vests and helmets were critical aspects to soldier survival *and confidence*.”¹¹³

In this case, the choice of an over-equipped and security-conscious force posture may have poisoned the Americans’ relations with indigenous peoples. Somali Ali Hassan Mohamed described the Rangers to *Blackhawk Down* author Mark Bowden as “cruel men who wore body armor and strapped weapons to their chests and when they came down at night they painted their faces to look fierce.”¹¹⁴ Another Somali, Abdiaziz Ali Aden, had similar thoughts: “[t]he Rangers wore body armor and helmets with goggles. [I] could see no part of them that looked human.”¹¹⁵ Al-

¹¹¹ PRUNIER, *supra* note 8, at 139.

¹¹² This was the recommended load-out for low-intensity conflicts. *FM 7-98: Operations in a Low Intensity Conflict*, *supra* note 106, at 4-22. That American troops were regularly so equipped is obvious from any of the pictures of soldiers on patrol in the *Lessons Learned* manual for Somalia.

¹¹³ *Id.* See also Sect. III-7. Emphasis added. In the present day, such precautions might seem sensible, viewed against the backdrop of the U.S. casualties in Iraq. However, in Somalia, there was no *fedayeen*, Al Qaeda, or organized, determined resistance, especially during the first phase of the operation. However, there appears to have been no recognition of this absence by the American forces or any corresponding modification of force equipment or posture.

¹¹⁴ Bowden, *supra* note 11, at 30.

¹¹⁵ *Id.* at 81.

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though it must be noted that Somali impressions of the Rangers were different than their impressions of normal soldiers, this fixation on equipment as a dehumanizing threat must be considered significant in light of the broad political objectives of the intervention. In a traditional military operation focused on pacification, these reactions would have been considered desirable since they represent a perception of the soldiers' power by a local population. However, where success is dependant upon attaining the population's trust, the same reactions are poisonous.

By contrast, the French focused on being perceived as present at the local level. Upon landing, they immediately deployed their troops without heavy equipment, which was left at the airport as part of a quick-response package. French soldiers traveled into the countryside on foot in groups of about forty, carrying their own food and ammunition. All weapons were man-pack; although there were some portable mortars and light machine guns, these were the exception rather than the rule. The units checked in by radio and by occasional overflight.¹¹⁶

This strategy paid significant dividends. "The surprise effect was strong. The French seemed to be everywhere."¹¹⁷ Their apparent comfort level with the environment and their relatively low military load-out made them seem "open to verbal contact."¹¹⁸ French officers began immediate contact with the native tribes, calling a *shir* (popular meeting) and establishing a regional committee of nine members, five of whom were Somalis. Four district committees were then created, each with three subcommittees. Each of these sixteen regional committees was chaired by a French officer but entirely composed of Somalis.¹¹⁹ This organizational structure complimented the diffused force structure; the French concentrated their efforts in the villages and local communities, maintaining their heavy equipment in the central city, but otherwise avoiding the massed troop, city-based approach of the American forces.

The French experience as a colonial power gave them a valuable leg up in this kind of a conflict. While the American army had been built and trained for mass combat, the French had faced low-

¹¹⁶ PRUNIER, *supra* note 8, at 139-41 (detailing the French strategy).

¹¹⁷ *Id.* at 140. Since Prunier himself is French, it is best to take his conclusions with a grain of salt. Nevertheless, it seems unwise to chalk them up entirely to bias.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

intensity conflicts many times. They grew to understand that low-intensity conflict was a very different animal than traditional war, and in response to their losses, particularly in Algeria and Indochina, developed a new comprehensive strategy on how to fight called “revolutionary war theory.”¹²⁰ Since low intensity conflicts are fought without distinct territorial objectives and without a discrete and well-defined opposition force, and since they are won as much by winning hearts and minds as by traditional conquest, revolutionary war, counter-insurgency actions share many aspects of humanitarian military interventions.¹²¹ The lessons of revolutionary war theory are, thus, directly applicable to the question of how to fight a humanitarian action.

The core equation of revolutionary war theory is simple: revolutionary warfare equals partisan warfare plus psychological warfare, where partisan warfare is a form of combat which stresses the role of individuals and groups using terror or irregular tactics, and psychological warfare is the sum of actions, violent or passive, undertaken to mentally or emotionally influence the opponent, the population, or one’s own troops.¹²² The goal of revolutionary warfare is straight out of Maoist tactical manuals – conquer territory by winning the people’s hearts.¹²³ As this study turns to a more focused look at American shortcomings, it is wise to mark the words of General Allard in a speech he gave in 1957 on *la guerre*

¹²⁰ The French were mostly involved in conflicts in their former colonies. They called these conflicts *guerres revolutionnaires* (revolutionary wars). The theory of how to fight them was therefore called revolutionary war theory.

¹²¹ While these conflicts are similar, there are of course differences. Principally, humanitarian interventions very rarely encounter the dedicated guerilla resistance that the colonialist French did in the 1950s and 1960s. Nevertheless, the responses to that resistance are broadly applicable, as are the lessons the French learned about dealing with these kinds of opposing forces.

¹²² PETER PARET, *FRENCH REVOLUTIONARY WARFARE FROM INDOCHINA TO ALGERIA: THE ANALYSIS OF A POLITICAL AND MILITARY DOCTRINE* 10 (Frederick A. Praeger 1964). Under this definition, the resistance in Iraq is a perfect example of revolutionary warfare, mixing terrorist attacks by diffused cells with kidnappings and other actions targeting morale.

¹²³ “Revolutionary warfare has for its aim the takeover of power, made possible through the active help of the physically and morally conquered population, employing destructive and constructive procedures that are applied according to a definite procedure.” *La guerre revolutionnaire et ses donnes fondamentales*, *Revue Militaire D’Information* 8 (February-March 1957), quoted in PARET, *supra* note 122, at 11. In Somalia, the “destructive” actions were relatively moderate, focused primarily on a French disarmament policy (which did not track the U.N.’s) that confiscated all heavy weapons immediately and catalogued rifles and other small arms for criminal enforcement purposes. See PRUNIER, *supra* note 4, at 140.

revolutionaire, “In revolutionary war, pure military action, which is of first importance in conventional war, takes a back seat to psychological action, to propaganda, to collecting and exploiting political as well as operational intelligence, to police measures, to personal contacts with the population, to social and economic programs, etc. . . .”¹²⁴. This comment will serve as a roadmap to U.S. failure and to the necessary elements of effective force structuring.

B. *Evaluating American Intervention Strategy*

The first objective in any military operation is to accurately understand what is going on at the ground level. From the start, the U.S. intervention in Somalia was hampered by a failure to discern clan leader intentions and a lack of understanding as to the nature of the situation.¹²⁵ The *Lessons Learned* manual puts it in clinical, understated terms: “[t]he level of deterioration of the political and economic infrastructure was not fully appreciated until operations commenced.”¹²⁶ The fault in this case is repeatedly underscored by *Lessons Learned*: underutilization of special forces units to collect human intelligence.¹²⁷ In technology-poor Somalia, the utility of signal and electronic intelligence was limited. All that remained was human intelligence, but unfortunately these units “[were] not fully exploited prior to D-day.” This led to the dearth of human intelligence that “plagued the [planning] process at the strategic level.”¹²⁸ Particularly damning is the failure to understand that the clans had no intention of resisting the intervention.¹²⁹ These misapprehensions resulted in the combat landing, the heavily armed convoys, and the sense of danger that pervaded American movements.

¹²⁴ Speech of November 15, 1957, *quoted in* PARET, *supra* note 122, at 30.

¹²⁵ This is particularly dangerous given that there were more than a half dozen significant warlords operating in Somalia during the intervention. See OLIVER RAMSBOTHAM & TOM WOODHOUSE, *HUMANITARIAN INTERVENTION IN CONTEMPORARY CONFLICT: A RECONCEPTUALIZATION*, 194 (Polity Press, Cambridge, 1996) for a complete chart of these groups.

¹²⁶ U.S. Army, *Lessons Learned: Somalia*, IX-1.

¹²⁷ One could also blame the CIA or others for this failure, but since *Lessons Learned* is a Pentagon product, it focuses on military successes and failures.

¹²⁸ *Lessons Learned*, *supra* note 126, at 14. It bears re-emphasis that *Lessons Learned* is tacitly admitting to a failure of the strategic planning process as well as to a failure to understand the level of deterioration from the mission’s outset, some of the most crucial aspects of an intervention.

¹²⁹ *Id.* at IX-2.

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The second shortfall on which *Lessons Learned* concentrates is the lack of progress made with respect to civil affairs.¹³⁰ American military policy, targeted primarily at mass-scale conflicts over discrete objectives, is notably light on civil affairs. Even the manual for *Operations in a Low-Intensity Conflict*, designed for more localized operations, has little to say about their use.¹³¹ Based on the attention given to civil affairs units, it is clear that they are second-class citizens. For example, the first paragraph about them states that “PSYOP [psychological operations] and CA [civil affairs] *may* influence the planning, preparation, and execution of operations.”¹³² As explained by General Allard, revolutionary war theory dictates precisely the opposite decision-making hierarchy—psychological and political operations have to take precedence over the purely military ones. The fact that the U.S. version uses the word “may” also implies that sometimes civil affairs and psychological operations concerns will not affect the situation, a ludicrous notion in an intervention that is focused on building an effective relationship between the military and local civilians, the precise objective of civil affairs and psychological operations units. Another example of this de-emphasis is the section on Task Force Organization (6-II), which groups civil affairs and psychological operations together before relegating them the role of advising soldiers about the psychological implications of their military actions.¹³³ Even in the later pages that examine these operational units specifically, little credit is given to them. They are there to support military objectives, not define them. Given this general attitude, the failure of civil affairs and psychological operations in Somalia can come as no surprise.

There is a short version of the civil affairs story in *Lessons Learned*:

Conducting operations in the absence of a legitimate national government in Somalia required substantial reliance on Civil Affairs Units and the Civil Military Operations Center of the

¹³⁰ Broadly defined, civil affairs is the process of establishing functional local governance and crafting effective relationships between the military and civilians (local and foreign) present during an operation.

¹³¹ Indeed, Special Operating Forces (civil affairs, special forces, and psychological operations units) are not mentioned until the sixth chapter and even then the discussion is limited to a single paragraph.

¹³² U.S. Army, *Operations in a Low-Intensity Conflict*, 6-5.

¹³³ *Operations in a Low-Intensity Conflict*, *supra* note 132, at 6-8. No mention is made of their role in crafting relations with locals or facilitating aid delivery.

JTF to interface with U.N. and nongovernmental agencies. If a fully staffed CA battalion had been employed [as in the plan], Civil-military cooperation would have been significantly enhanced.¹³⁴

This is putting it mildly. Upon arriving in Somalia, the American soldiers immediately secured the area by disarming those around them. This action was coordinated neither with civil affairs nor with the Civil-Military Operations Cell, the result of which was the disarmament of the very men hired to guard humanitarian aid convoys, frustrating the primary objective of the intervention, the delivery of food.¹³⁵ It is not surprising that civil affairs support was confused; the Initial Plan for Battle included only a promise that a civil affairs plan would be appended later. Sixty days into the operation, there was still no civil affairs plan, and U.S. troops pulled out of Somalia without a civil affairs section having been written, much less implemented. Without formal directions, the units did their best to coordinate with civilian authorities and to support the overall mission objectives, but even the best improvisation (which this distinctly was not) is no match for a well-executed, properly-supported plan.

Further hampering the overburdened civil affairs units in Somalia was the fear of "mission creep."¹³⁶ The effect of this fear is detailed in *Lessons Learned*:

CA units offered advice and assistance in developing some of the local programs, such as how to reestablish a local police force and restarting schools. However, to keep the U.S. out of any long-term commitments, the project had to be managed by the local civilians.¹³⁷

Medical care, sanitation, and policing require organized, disciplined, and competent units. Local civilians whose society has largely disintegrated are therefore ill-suited to the task. These critical infrastructural issues are things about which the natives can do

¹³⁴ Only 3% of Army civil affairs units are even on active duty, meaning that unless it is politically viable to call up reserves, the civil affairs units will always be short-staffed.

¹³⁵ This snafu represented a failure both of civil affairs integration and of human intelligence.

¹³⁶ Mission creep is the fear that a humanitarian intervention would become too involved in local governance and be unable to leave. The irony of this paranoia in light of the eventual UNISOM II operation should not be missed. The prevalence of this concern gives credence to the "operational identity" theory that forces saw themselves as possessed of a very specific mission, not of a greater set of goals.

¹³⁷ *Lessons Learned*, *supra* note 126, at IX-3.

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little, but which an intervener can do a great deal, as the Australian example amply demonstrates.¹³⁸ While the United States did attempt to build a Somali police force, the ASF, it provided weapons, equipment, and technical assistance unevenly.¹³⁹ The *Lessons Learned* manual says very little about this effort, commenting only that the U.S. moved with “deliberate speed to encourage and advise Somali officials to reform a police force.”¹⁴⁰

In conclusion, *Lessons Learned* compliments the Provost Marshall and Staff Judge Advocate for adapting to novel circumstances and then concludes, “Adequate [civil affairs] augmentation would have enhanced state-building efforts in Somalia.”¹⁴¹ This serves as a proper epitaph for the entire American campaign.

C. *From Where to Draw Intervention Forces*

These failures of conception and force structure make it clear that it is necessary to re-conceive the traditional American approach to humanitarian intervention.¹⁴² Humanitarian operations

¹³⁸ To the Australians, the creation of a local police force was “the heart of [their] relationship with the community and or mission.” LYNN THOMAS & STEVE SPATARO, *PEACEKEEPING AND POLICING IN SOMALIA*, 175, 197 (Ed. Robert B. Oakley, Michael J. Dziedzic, & Eliot M. Goldberg, Institute for National Strategic Studies), available at <http://www.ndu.edu/inss/books/Books%20-%201998/Policing%20the%20New%20World%20Disorder%20-%20May%2009/cont.html>. They believed that if they established an effective local police force, that group would contribute to stability and make the rest of their job easier. The Australians were the only interveners to bring civilian police advisors and (perhaps for that reason) they also brought with them the equipment necessary to build a police unit: typewriters, paper, VHF radios, uniforms, batons, and the like. Once they had vetted the former officers and run basic background checks through the leaders of a given village (to ensure that the officer was not suspected of clan activity), they had their civilian advisors begin training the cleared individuals. Next, they enlisted former judges and their clerks, who were coaxed out of hiding. The final stage in the Australian plan was perhaps the most critical- they rebuilt the police station, which quickly became a full-fledged Hall of Justice, housing police, judiciary, prison, and Australian military command centers. This Hall then served as centrally-located safe zone and dispute resolution center, a spot which quickly became a meeting place and a daytime population center. In short, the Australians hit the ground with a policing strategy and with the tools to make it work. Their execution paid dividends when the population began to congregate at the police station, making aid distribution easier and providing a densely-grouped, willing source of human intelligence.

¹³⁹ The fact of these grants is well documented; their unevenness is conceded by the program’s creator. *Id.* at 196-97.

¹⁴⁰ *Lessons Learned*, *supra* note 126, at XIV-43. This operation was seen as solely the purview of civil affairs units and was not even mentioned in the section on military police.

¹⁴¹ *Id.* at 15.

¹⁴² Although this section applies broadly to republics in general, it is specifically designed as a policy prescription for the United States. This argument, of course, presupposes that humanitarian military interventions of this type continue to be necessary and

cannot be executed successfully following the same basic operational strategies and force postures as normal campaigns. This section will address the question of how the U.S. Armed Forces should be structured in order to avoid the kinds of failures that plagued the Somalia operation and which appear ready to cripple similar deployments in the future.¹⁴³ In light of the evidence that units trained in traditional warfare make poor interveners, one is forced to conclude, as the *Department of Defense* did, that “the unpredictable and unique challenges generated by regional crises often require forces tailored to fit specific requirements.”¹⁴⁴

There would seem to be three natural possibilities for filling this need: existing active duty units could be retrained and retooled to meet the demands of humanitarian military interventions, new active duty units could be created and specially trained to meet these needs, or the National Guard and/or Reserves could be called on to develop units trained as interveners. The first and second options are less than ideal for reasons both practical and theoretical, but the third option presents an optimal practical choice with significant theoretical benefits.

*Reforging the Tools of War: Using the Conventional
Armed Forces*

The simplest solution is often the best, and retooling a unit, or some units, from the current Armed Forces has many attractive characteristics. First, it could be done quickly and easily, probably by Presidential directive alone. Thus, it would not require a mobilization of any particular kind of public support.¹⁴⁵ Congress would maintain its usual control through the power of the purse strings, but this kind of change would still be administratively far easier to accomplish than creating new units from whole cloth or using methods which require Congressional or local assent. Second, the soldiers to be trained are already in uniform. This means that the baseline military training has already been accomplished. The soldiers already understand the concept of rules of engagement,

that the United States continues to act as a virtuous republic by engaging in them. Hopefully, the advisability of such interventions where necessary has been demonstrated by the foregoing parts.

¹⁴³ The failure of state-building efforts in Iraq demonstrates that some of the lessons have not yet been learned. However, it is worth noting that some lessons, like the focus on establishing a national police force, have taken root.

¹⁴⁴ *Transforming Defense*, *supra* note 79, at 31.

¹⁴⁵ This is in some ways a drawback, as will be detailed below.

have been trained to follow instructions, and have their basic training in firearms and the other tools of armed conflict. While it is true that they would need retraining in their specific intervention roles, this could be accomplished much like any other mission training. Finally, these soldiers have no other occupation, so they would have the time to dedicate themselves to learning their new role.

However, there are strong practical reasons to oppose the use of standing army soldiers. The first is that they may be needed elsewhere. While a range of knowledgeable commentators have come to believe that the U.S. Armed Forces are oversized already,¹⁴⁶ the solution is not necessarily to re-task some of the units already in play. Indeed, this strategy would cut against one of the core rationales for military reduction – the relative cost-efficiency of the reservist or Guardsman as opposed to the full-time soldier. Thus, if one believes that the armed forces are “right-sized” already, then it makes no sense to reduce their combat effectiveness by using some of the needed units for humanitarian intervention. If one believes that the armed forces are too large, then re-tasking these units misses the opportunity to cut into the excess. If one believes they are too small, of course, no cuts are advisable. In any case, using existing units is disfavored.

The second problem with reassigning units is that they already have adopted the military mindset. They are first and foremost war fighters. “Peacekeeping will present the soldier with a hugely varied range of experiences which he or she is unlikely to have experienced in the course of their [sic] routine military activities. In peace-keeping no situation is like the other.”¹⁴⁷ Therefore, there is a real question as to how well the soldiers will accept the foreign mindset of a humanitarian intervener. Since these soldiers are in the regular army, this problem will be compounded by constant exposure to regular war-oriented units, which will only enforce the idea that their primary responsibility should be readying themselves to attack an enemy and debilitate it. Given the psychologi-

¹⁴⁶ See, e.g., GARY HART, *THE MINUTEMAN: RESTORING AN ARMY OF THE PEOPLE* ch. 2, 3 (Free Press 1998). But note that *Transforming Defense* calls for the use of Reserve units to “alleviate the operational and personnel tempo pressures on active components” during interventions and suggests that a failure to do so could lead to decreased active unit readiness. *Transforming Defense*, *supra* note 79, at 31.

¹⁴⁷ Comments of Lt. Gen. Wahlgren (Retd.), Swedish Army, *The Training and Preparation of Military Peacekeepers*, from INCORE Conference on the Training and Preparation of Military and Civilian Peacekeepers, Summary of Proceedings (June 13-15, 1996).

cal factors, there are good reasons not to use regular soldiers, particularly since the possibility of “crossed signals” is very real.

Furthermore, if placed in the regular army, these units would be in the integrated command structure. This means that their officers would be promoted in and out of the ranks of the White Berets.¹⁴⁸ If their commanders are regular army, the White Berets will adopt a more military mindset, undercutting their roles as peacekeepers.¹⁴⁹ If, instead, their commanders are themselves specialists, experience has shown that these officers will not receive the same respect as more conventional warriors and they will not be promoted as quickly as those on a traditional track. In other words, the assignment will be undesirable for a career officer. This is a particularly dangerous problem given the diverse duties of a White Beret leader. Such an officer must be able to inspire her own troops, but she must also be able to interface with foreign units and maintain a ground level sense of what is feasible. She not only faces decisions about military tactics, but also about civil justice, local control, and a wide range of psychological operations. Making such a demanding position unattractive courts disaster.

Employing a standing army unit is also undesirable because there is no value added by their use. By and large, soldiers do not possess the specialized skills in civilian justice, mass sanitation, engineering, civil construction, or policing that humanitarian interventions demand. These units would either have to learn these skills as a part of their specialized training or they would have to try to learn them on the job during the intervention. This second alternative recalls the ad hoc way in which interventions are handled, training them all in the necessary skills is extremely expensive and potentially quite wasteful. It is possible that for years on end, the White Berets would not be deployed. In this case, their skills, including the time and money spent developing them, would be largely wasted. The temptation would therefore be to commit them to all kinds of domestic service, but this risks leaving them

¹⁴⁸ For simplicity of language, I have dubbed the new unit, whatever form it takes, the White Berets. Using ‘Blue Berets’, the color normally associated with peacekeeping, risked confusion over whether they would be American troops or U.N. controlled forces. Other colors, including green, red, tan and black, are all taken. Although no military unit would accept either the moniker or its sartorial emblem, it conveys the conceptual differences that needs to exist between the regular army and these new forces.

¹⁴⁹ These differences in perspective will exacerbate the already significant problems that new commanders have when trying to attain cohesion with their new troops. See HART, *supra* note 146, at 125.

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committed to their “meantime tasks” when intervention is necessary, and potentially involves significant legal and political complications.¹⁵⁰

Finally, republican thought disfavors standing armies, which are seen as a natural threat to liberty.¹⁵¹ When there is any other option, republican theorists will happily seize upon it. This is particularly true when it has the advantages of the one presented below.

Adding to Excess: The White Berets as a New Regular Army Unit

The concept of creating a brand new regular army unit has little to offer. Only two of the problems detailed above are cured by the creation of a new unit – these new soldiers would not necessarily have a warrior mindset and the unit would not take away soldiers needed elsewhere. However, the command-and-control problems, the problem of warrior instinct bleeding in from other units, and the dominant problems of a full-time unit devoted to a part-time task remain. Furthermore, since they would share a budget with the more traditional army, they would still be “taking away” from the effectiveness of regular units unless the brass succumbed to the inevitable temptation to under-fund them and use the surplus for more traditional units, which undercuts the already-modest gains. Finally, as noted above, adding to the standing army is inimical to republican theory.

¹⁵⁰ For example, finding a use for a soldier expert in civilian justice and policing provides a strong temptation to try and incorporate that soldier in some way into the civilian justice system, implicating the Posse Comitatus Act and the whole range of the policy reasons that underlie it. Similar problems are implicated by something as simple as using the regular Army corps of engineers to build dams. One can also imagine significant political consequences if military units began replacing civilian workers on local projects.

¹⁵¹ For two examples of assertions to this effect, see George Washington, *Farewell Address*, in Hofstadter, *supra* note 96, at 215; see also, Jefferson’s letter to David Humphreys in March 1789, in THOMAS JEFFERSON, *POLITICAL WRITINGS*, *supra* note 90, at 113. See also MACHIAVELLI, *THE PRINCE*, *supra* note 97 (especially Books XII and XIII). Hart provides a more complete overview of republican thinking on the question of standing armies in Chapter 4 of *The Minuteman*. See HART, *supra* note 146, ch.4. A fuller examination of this concern is beyond the bounds of this study, but it suffices to say that one could scour the pages of republican theory for some time before finding a theorist who advocates a large standing army, unless it is composed of all citizens, in which case it is only nominally “standing.”

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The Republican Solution: Using the Auxiliary Forces

At the outset, it should be noted that most of the concerns raised above can be answered by using Reservists and Guardsmen as White Berets.¹⁵² First, auxiliary soldiers are not needed elsewhere in the same way as standing forces are. The standing army represents a conception of what forces might be necessary to face a coming conflict. Although the conception of a likely force deployment now includes using reserves, they are still not as critical as the front-line and regular duty support forces, particularly in less sustained conflicts that do not require a huge logistical “footprint” to support the force in the field.¹⁵³

The second reason that auxiliary soldiers would make better interveners is that they do not think as much like warriors. This is neither a compliment nor a criticism of the excellent soldiers of either the Guard or the Reserves, but rather is simply an acknowledgement that there is a lifestyle difference between auxiliary forces and active duty units. Active duty soldiers by and large live on bases and are surrounded during their working life by the other members of their unit. Hopefully, their bonding is such that they fraternize off duty, and become a social community as well as an occupational one. The ebb and flow of military life is a part of their everyday experience, which aims to prepare them for war.¹⁵⁴ When the system works well, it creates an identity and a whole way of thinking, the so-called “military mindset.” By contrast, the auxiliary serviceman’s life is quite different. While the term “weekend warrior” is pejorative, it contains a kernel of truth about this difference. A Reservist or Guardsman is not a soldier as a principal profession; he or she is a nurse, policeman, lawyer, bricklayer, or whatever else first and a soldier in addition.¹⁵⁵ Auxiliary soldiers

¹⁵² It is not necessary to differentiate too neatly between the Reservists and the Guardsmen for this task. They would fulfill the role equally well from both a practical and a theoretical perspective and, alternatively, elements could be drawn from both to complete the task. Accordingly, this article will use the term “auxiliary soldiers” to refer to their combined membership and “auxiliary soldier” to refer to a member thereof.

¹⁵³ The viability of this plan in light of the recent stresses in military recruitment occasioned by the war in Iraq is a somewhat open question. Regardless of its answer, however, it seems reasonable that the auxiliary forces are still preferable to regular duty forces, if both are depleted, for the same reasons.

¹⁵⁴ While the extent of this objective varies (i.e. Rangers are more constantly trained for war than cooks), the purpose of regular duty soldiers remains to prepare to employ their skills in support of their units under wartime conditions.

¹⁵⁵ While there may be auxiliary soldiers who consider themselves soldiers first and their other job second, the amount of time that is devoted to soldiering is likely to be far less

by and large do not live on bases and do not have the same insular network of connections. They are, as their advertisements remind us, just like everyone else. They have ‘normal’ jobs and ‘normal’ relationships and, most importantly, generally think ‘normally’ about most things in life.¹⁵⁶ Perhaps when auxiliary soldiers are fulfilling their service commitment each year they think of themselves as preparing for war, but, on the whole, military readiness is not their life’s work. When the time comes to participate in a humanitarian intervention, these soldiers will necessarily view their objectives differently. A policeman wearing camouflage is still principally a policeman. A lawyer carrying an M-16 remains, principally, a lawyer in thought. While their mindset undoubtedly becomes more military, it is not the equivalent of that of the professional soldier, who lives the military life year round. These forces already know how to think like soldiers, but they are practiced at thinking like citizens.

The third reason that auxiliary soldiers are preferable interveners is the most convincing – they bring with them the skills necessary to fulfill the goals of the intervention. “Peacekeeping, humanitarian assistance, and similar operations depend heavily on military capabilities that require strategic and tactical airlift, civil affairs, medical, engineering, military police, transportation, and similar skills.”¹⁵⁷ While some of these skills are available in the active military, “most of these capabilities reside in the reserve components.”¹⁵⁸ The requisite civil affairs and professional skills which are lacking to some extent in the military, are prevalent in the Reserves and National Guard, a fact of which the regular services have taken note. For example, the Marine Corps relied entirely on its Reserves for civil affairs support in the Persian Gulf conflict¹⁵⁹ and the Air Force often calls up reserves when massive strategic airlift is needed. Furthermore, as the military comes to re-conceptualize its way of intervening, “reserve forces . . . can pro-

than the amount of time which is spent on their other work, making these soldiers the exception rather than the rule.

¹⁵⁶ While one suspects that they would view military affairs somewhat differently, this difference is likely to be tempered by their more general life experience. Furthermore, one expects this tempering will only get stronger as they get further from their active service or their basic training.

¹⁵⁷ STEPHEN M. DUNCAN, *CITIZEN WARRIORS : AMERICA’S NATIONAL GUARD AND RESERVE FORCES & THE POLITICS OF NATIONAL SECURITY* 202 (Presidio 1997).

¹⁵⁸ *Id.*

¹⁵⁹ See HART, *supra* note 146, at 142, *citing* a study by Colonel Harry G. Summers, Jr.

vide skills that stem from their civilian specialties.”¹⁶⁰ The auxiliary services, because they allow citizens to be citizens first, encompass people from all walks of life. Construction workers, civil engineers, sanitation engineers, doctors and nurses, lawyers and policemen all have skills that are useful in humanitarian intervention.¹⁶¹ When mustered, they come with their formal education and with their work experience in tow. While one would need to train regular soldiers to do these things, no such training is necessary for citizens who do them every day. By mobilizing these elements of the auxiliary forces, the state mobilizes its civilian human capital.¹⁶² There is another benefit to this as well – when the intervention concludes, these citizens return to their normal jobs.¹⁶³ They would continue to be paid, but only at their auxiliary rate. The military would not have to find jobs for them in order to justify their training costs. They would, in other words, be efficient.

Creating the White Berets within the auxiliary forces would also ameliorate some of the command and control problems that face a standing army humanitarian intervention force. First, there are very few “career” auxiliary officers. For the most part, auxiliary officers are like their soldiers, part-time warriors. Thus the pressure toward promotion is less among the auxiliary forces, meaning that assignment to command these units would not be considered undesirable.¹⁶⁴

Auxiliary forces also tend to receive older, lighter equipment than regular forces, because they are a lower logistical priority. In a traditional war, this makes them inferior to better-equipped regular army units.¹⁶⁵ However, the very technology which made America invincible in the first Gulf War – main battle tanks, heavy armor, night vision goggles – created poor native relations in

¹⁶⁰ *Transforming Defense*, *supra* note 79, at 31.

¹⁶¹ Naturally, not all auxiliary soldiers have skills that are immediately applicable to humanitarian military intervention. The need for some selectivity in structuring the White Beret units is discussed at greater length *infra*.

¹⁶² Of course, the auxiliary services also bring the benefits of their military training, making them far superior interveners to a civilian peace corps-type unit.

¹⁶³ This, of course, requires some assurance that the jobs remain open to the White Berets' return, which may require additional legislation or regulation.

¹⁶⁴ In fact, it is possible that assignment to these first-responder units would be considered an honor. However, one must balance any benefits against the increased possibility of deployment, which could make the position less desirable.

¹⁶⁵ For example, reserve and guard units will use older aircraft and tanks, which may not be equipped with the same advanced radar and night-vision systems as their regular army counterparts.

Somalia. Just as one might not want lightly armed, widely dispersed units of soldiers to fight the Republican Guard, using the Rangers to make peace in Somalia was somewhat counterproductive. The fact that the auxiliary services have less equipment (some even say they are undersupplied¹⁶⁶) can be turned to their advantage, because it makes them lighter units. First, this means that the airlift and/or sealift required to get them into a country is lessened. More importantly, though, this lighter load-out affects the way that they will operate on the ground. The task of guarding a convoy or a station against light resistance does not require heavy armament, but a unit used to full load-out would feel more comfortable using it.¹⁶⁷ Correspondingly, a unit that is accustomed to using lighter armaments will be comfortable with them. Their less-threatening demeanor would pay dividends in civilian-military relations. Furthermore, as noted above,¹⁶⁸ in many humanitarian interventions, armored cars and light arms will still outclass any opposing force so long as they are wielded by those proficient in their use.¹⁶⁹ Experience with the ASF suggests that even hastily-trained and lightly-equipped units can hold off bandits until help arrives. The better trained and better armed auxiliary force units should be even more successful.¹⁷⁰ While one could argue that reducing the “warrior mentality” in the White Beret forces will also reduce their combat effectiveness, this loss should be offset by the gain in mission-specific competence. In other words, troops specially trained in convoy protection, even those that are trained to think twice before unloading their rifles, or those with “inferior” equipment, will still be at least as good at convoy protection as those whose primary

¹⁶⁶ See HART, *supra* note 146, at 141-145 for a synopsis of this debate.

¹⁶⁷ Recall the quote from *Lessons Learned*, *supra* note 126, at 37.

¹⁶⁸ See *supra* notes 16-17.

¹⁶⁹ While the debate over the effectiveness of auxiliary forces rages, the questions focus on their readiness to fight prolonged conflicts or to take on highly trained adversaries. In an early-stage humanitarian intervention like Somalia I or Rwanda, the opponent is far less well-equipped and well-trained. If more serious fighting develops, it might become necessary to support these units with regular combat units or with designated strike units, *see infra*.

¹⁷⁰ It is worth noting that 50% of regular troops have less than two years of active-duty experience and more than 50% of reserve troops have more than two years of active service. See HART, *supra* note 146, at 160. Thus, one gets individuals whose mindset is now principally civilian but whose experience is comparable to that of standing army soldiers. These same auxiliary forces have formed the core of many deployments and have in the past performed well against far stronger opposition. As detailed *infra*, a White Beret unit will also be trained in these specific tasks, giving them even greater combat effectiveness.

focus is on offensive operations. This is particularly true when these trained units are facing opposition which may be considerably less competent and less confident than they are. The weakness of the forces opposing the intervention opens the door for a unit whose equipment will make them less threatening, but who will still be able to accomplish the mission objectives. Given their comfort level with lighter arms, auxiliary forces are ideally suited to become these units.

The third value that the auxiliary forces bring is purely practical, but can be essential in a less-than-ideal republic such as the United States. Auxiliary forces are well-positioned to maintain their own funding. As noted above, one danger in using the regular armies as interveners is that the specialized units will have their earmarked funding gradually decreased in favor of traditional units, with the change masked in the labyrinthine Defense Department budget. This danger is particularly acute since the White Berets would not need or employ any high-tech, high-cost weaponry for which contractors will lobby. The auxiliary forces have smaller budgets and changes in them would be more visible. More importantly, the auxiliary forces have long sought a stage on which they can show their stuff.¹⁷¹ Since the White Berets would be the auxiliary forces most frequently deployed and their actions would be extremely visible, they would likely receive at least their fair share of the auxiliary forces' budget.¹⁷²

The final facet to consider is the way in which force structure affects the perception of the unit abroad. While often the target state is no longer either extant (Somalia) or legitimate (Rwanda, Yugoslavia), in some potential interventions there may still be functioning governments. Envision a state trying to decide whether or not to accept humanitarian aid, where the aid will necessarily have a military component.¹⁷³ Accepting the entry of foreign troops is never easy for a state. If the White Berets are a part of the standing army, then accepting their help may be perceived as

¹⁷¹ See HART, *supra* note 146, at 133-134.

¹⁷² Moreover, auxiliary forces may be better cared for by Congress because their members are mostly civilians and are therefore capable of applying political pressure more easily than regular military officers.

¹⁷³ This circumstance could occur in a number of ways. In a natural disaster, the White Berets' ability to deploy by helicopter (or other military means) could be key to being able to reach the victims. Alternatively, in a traditional conflict, simply having U.S. forces present might allow aid to be delivered, because each side in a conflict might hesitate to anger America by attacking the convoys.

inviting an invasion force. By using auxiliary units, the United States would explicitly draw a distinction between its primary combat troops and its humanitarian interveners. A country might accept quasi-civilian aid where it would have rejected an army's aid, or it might accept a deployment with small arms when it would have rejected one more heavily outfitted. Normally, such strictures would reduce a heavy unit's effectiveness, but the White Berets would have been trained within them and would therefore be operating within familiar bounds. Thus, operations that would have been rejected might be accepted because other nations recognized the difference between units whose principal duty is to help and those that are built to conquer. This means more interventions, which is a republican good.¹⁷⁴

These practical differences between the possible force structures demand respect, but equally important in terms of this paper are the theoretical reasons that auxiliary forces are preferable to standing army soldiers. The first reason was mentioned above – republicans don't like standing armies. However, this truism does not fully capture the republican view of the citizen-soldier. First, choosing to make the sacrifices required for soldiering strengthens the instincts and the will that comprise civic virtue. Furthermore, it increases a citizen's knowledge of international affairs and reinforces the core values of the republic. In short, there is no exercise more valuable or more virtuous for the ideal republican citizen than military service.¹⁷⁵

The citizen's participation also has certain highly desirable ancillary effects. First, the individual auxiliary soldier can have beneficial effects on the civic virtue of a community. In a republic, one of the highest goods is an informed, involved citizenry engaging in vigorous debate.¹⁷⁶ In terms of ameliorating the effects of the

¹⁷⁴ In addition to those benefits described in Part I, if the U.S. is going to have White Beret units, there is a benefit to deploying them regularly, in terms of experience and in preparedness. This is somewhat in tension with the gains from having the White Berets be part-time.

¹⁷⁵ See, e.g., MACHIAVELLI, THE ART OF WAR, *supra* note 94, at 4; MACHIAVELLI, THE PRINCE *supra* note 97, at 58-60; MACHIAVELLI, THE DISCOURSES, *supra* note 94, at II.2; Hart, *supra* note 146, ch. 4 (collecting other ancient sources).

¹⁷⁶ The Founders had an interesting relationship with the question of factionalization, the darker side of vigorous debate. Madison famously acknowledges its power in FEDERALIST 10, treating it as a simple and unavoidable part of human nature. Arendt lauds this acknowledgement and the efforts to minimize it that FEDERALIST 10 makes. See ARENDT, *supra* note 86, at 93.

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Somalia Syndrome, having people in American communities who can say, “This was worth doing” or “It’s not all like that” is critical.¹⁷⁷ Likewise, if a particular mission is poorly-conceived or undersupported, having these citizens in American communities will help to ensure a public debate about those failures. Ideally, this public debate will not be limited to a bipolar choice to intervene or not intervene in a given situation. Rather, the citizen-soldiers will bring back to their communities a wealth of knowledge of the means and purposes of intervention, adding to the public’s knowledge and facilitating the kinds of exchanges that build civic virtue.¹⁷⁸

It should be noted that in terms of a society defining itself through its military structure, it is preferable to put forward the citizen-soldiers as the ideal as often as possible.¹⁷⁹ By using citizen-soldiers where possible, the republic makes a statement about itself to the world, enhancing the signaling benefits previously described.¹⁸⁰

Having citizen-soldiers as interveners also has at least one additional effect, one that could be viewed as either desirable or troublesome. This effect has to do with the “tripwire” function of auxiliary force mobilization. Because calling up auxiliary forces means taking citizens from their communities, from their jobs, and from their families in a way that sending regular army forces does not,¹⁸¹ calling up the Reserves or the National Guard requires far greater political support than does deploying portions of the standing army, which is a decision in which the President has “greater latitude.”¹⁸² For example, Lyndon Johnson long avoided calling up

¹⁷⁷ Generally speaking, the citizen-soldier is considered the epitome of republican civic virtue. See HART, *supra* note 146, ch. 4. Having made the sacrifice of soldiering, she is practiced at putting the common good before her personal good. One would also expect that she would understand the autonomy values at stake and would therefore be in the best position to support interventions which might not be of obvious merit to the less perceptive, less informed or less virtuous citizen. Correspondingly, if the intervener-citizens do not support an intervention, either they are failing to exercise civic virtue or that intervention is unwise.

¹⁷⁸ Returning to the practical for a moment, having members of White Beret units spread throughout the United States will help to ensure that if the Department of Defense or the local auxiliary commanders do begin to shirk their duties, they will be promptly called to task.

¹⁷⁹ See generally HART, *supra* note 146, at 9.

¹⁸⁰ See *supra* Part I.B.

¹⁸¹ This re-emphasizes the differences in lifestyle between regular soldiers and citizen-soldiers.

¹⁸² See HART, *supra* note 146, at 8.

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the Reserves because he feared a referendum on Vietnam.¹⁸³ Other Presidents have used the Reserves or Guards in the reverse way, to signal that a conflict was worthy of American national attention.¹⁸⁴ This effect means that political will must be mobilized on a far broader scale than for the deployment of an equal number of standing army soldiers.¹⁸⁵ The question is whether requiring this mobilization of will is a good thing or not.¹⁸⁶

There are solid reasons to believe that requiring mobilization of the public is undesirable from a practical perspective. First, it requires the people to inform themselves about almost every shift in military policy and almost every commitment of American troops. While this might be theoretically desirable, practically speaking it requires the devotion of considerable time and energy. These costs may outweigh the gains of any given intervention. While these costs decrease where there is a well-educated, virtuous citizenry, they do not disappear. Accordingly, a foreign policy which could have been a net benefit if the citizens were not informed may be transformed into a net loss because of the need to so inform them. Thus, a valuable intervention is not undertaken because of these information costs. Secondly, there are times when explaining the benefits of a given action is impossible or might obviate those gains. Sometimes the information underlying the decision to intervene may be classified or sensitive. In these cases, explaining the decision might compromise intelligence sources or at the very least betray U.S. strategic thinking. More commonly, though, there are simply deals best made quietly.¹⁸⁷ Under these circumstances, while it might be theoretically optimal to hold open fora to discuss the decision to intervene, it is impracticable. Mobil-

¹⁸³ *Id.* at 138-140.

¹⁸⁴ See *id.* at 143, quoting General Edwin Burba, Jr., who told assembled reservists that “when you come to war, you bring America with you.”

¹⁸⁵ Take, for example, the President sending a carrier battle group to the South China Sea. This move involves thousands of soldiers, but it is not considered a mobilization of significant American resources. Compare this to the reaction if the President called up 10,000 Reservists to go abroad and protect Taiwan.

¹⁸⁶ For a partial description of opinions on this question, see HART, *supra* note 146 at ch. 5, siding with the opinion of John McCauley Palmer (as summarized by his biographer, I.B. Holley) that “the manpower of the nation should never be mobilized without first mobilizing the national will.”

¹⁸⁷ For example, mobilizing forces to protect the stability of certain financial markets may, if done openly, have the opposite effect. Certain deals made along ethnic lines (in, for example, the Middle East or on the India-Pakistan border) may not function if disclosed or, if the threat of exposure is credible, never even be made.

izing the auxiliary forces has the effect of forcing these kinds of discussions.

Weighed against this cost is the benefit of having the citizenry actively involved in state decision making. Without belaboring the point, it is the very core of republican theory that the informed citizenry guides the state by exercising their civic virtue to make informed decisions. To argue that things should be kept from the citizenry without a thoroughly compelling reason is anti-republican. Likewise, to argue that the state should decide what to tell the people and what not to tell them is doubly dangerous, since it also separates the organic state from the citizens assembled, a distinction that republicans would find empty. Simply put, it is foreign and inimical to the republican mindset to have a cadre of better-informed decision-makers keeping information secret from the citizens and deploying military forces based on that information.

This troublesome tension requires some resolution. Here, it must be noted that while using the auxiliary forces creates a tripwire, having special units within those forces makes the tripwire less bothersome. Just as the citizenry does not react to the deployment of a carrier battle group in the same way that they react to a Reserve call-up, informed citizens would develop different reactions to the calling up of White Berets than to the calling up of other auxiliary units. In fact, it is implicit in the plan outlined below that the White Berets expect to be called up more frequently for humanitarian military interventions. They would understand from their training that there is a difference from that of the regular Reserves or regular National Guard. They would pass this understanding on to their communities and it would become a part of the way in which Americans would react to their deployment. Thus, the reaction to their deployment would not have the same strong tripwire effects. In essence, using specialized auxiliary forces creates a middle ground where some public debate occurs but where the detailed explanation of motives that might threaten foreign policy can be kept to a more acceptable level.

D. *The White Berets: A Proposal of Questionable Modesty*

So, then, how should a republic, or more specifically the United States, structure its humanitarian intervention forces? The principles and pitfalls outlined above should serve as a basic guide. The core of the intervention unit would have to be forged from members of either the Reserves, the National Guard, or both.

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There are three solid reasons to simply designate units that already exist. First, they have already established the kind of unit cohesion necessary for success. Second, since units are composed of local citizens, designating them enhances the Congressional support one is likely to expect. Finally, refitting an existing unit reduces the administrative costs of creating the White Berets, because the necessary logistical support is already in place.

However, there are several reasons to believe that designating extant units is not the optimal way to create White Beret units. First, doing so would undercut one of the advantages of using auxiliary forces – their skill set. There is no reason to expect that designating an extant unit would capture the variety of skills necessary for interveners. While certain units might work – for example, a Reserve unit specializing in setting up mass water purifiers – others, such as a basic infantry unit, might have only one or two members with the necessary skills. Second, since units are composed of local citizens, designating certain units as White Berets and deploying them frequently risks harming local economies in a concentrated way. Casting a wider net means that the economic damage is felt less strongly in individual communities. Along the same lines, having White Berets in as many communities as possible helps to increase the effect they have on political dialogue. If one of the benefits of auxiliary units is to instigate and direct civic debate, having them as widely dispersed as possible is preferable.

Ideally, White Beret units would be composed of volunteers, allowing individuals ill-suited to the task to select themselves out.¹⁸⁸ Volunteering for the White Berets should be encouraged. The first key to this effort is having these units perceived as elite forces. This can be accomplished by making them selective admission units and by incorporating a special training regime, which are both desirable for other reasons. Better compensation would not

¹⁸⁸ There are a variety of reasons that a citizen, even a virtuous one, might not seek to join the White Berets. First, some citizens (with large families or ailing relatives) might be less well-suited to the rigors of more frequent deployment. Second, the kind of temperament required for humanitarian intervention is not the same as that required for soldiering. See Greg Tillett, *Conflict Resolution Training for Military Peacekeepers* 1 (1996). Available via Columbia International Affairs Online at <https://www.cc.columbia.edu/sec/dlc/ciao/conf/inc02/inc02.html> (“In peacekeeping operations, personnel. . . will often be subject to instructions which require them to act in a policing rather than a military role.”). Enlisting soldiers ill-suited to the mission will only ensure failure. See generally Duncan, *supra* note 157 at 217 (“Reservists are not fungible items that can be mindlessly used for problems unrelated to the purposes for which they joined the armed forces in the first place.”).

only make up for the greater frequency of deployment, but would also signal the desirability of the position.¹⁸⁹

This is not to say that the White Berets should be open to all who are interested. Rather, the hope is that aggressive advertising and compensation would draw a talented pool of potential volunteers from which the White Berets could be chosen.¹⁹⁰ The individual members of these units would ideally be selected from the pool of volunteers. This way, commanders could ensure that White Beret units would have the variety of skills necessary to effectuate their missions. This includes, of course, ensuring that units are not entirely composed of citizen-professionals who consider themselves as half-soldiers. While bandits on ancient jeeps might not pose as great a danger as an armored column, they still present very real dangers that can only be combated by trained, responsive soldiers. A mix of combat-oriented but defensively-minded soldiers and soldiers with relevant skills is optimal. Note that in a medical unit, for example, only a small percentage of the Berets would need to be medical professionals; others might be cross-trained in basic first aid, sanitation, or medical support.¹⁹¹ The ma-

¹⁸⁹ For some soldiers, the possibility of more frequent deployment itself might be attractive. For others, the possibility of doing good or avoiding traditional combat might be selling points. Even financial incentives need not be simply a higher salary. A generous program of financial aid for young professionals (in the form of tuition credits, federal loan forgiveness, or zero interest loans) could bring an influx of talent to these units. It bears noting that White Beret units would be particularly hungry for lawyers, doctors, and engineers, who have higher educational debt than average citizens.

Still other incentives could be provided by preferential appointment to civil service positions, like those currently given in the appointment of Administrative Law Judges. Nurses, lawyers, doctors, engineers, construction workers and sanitation specialists all have large state and federally-sponsored jobs they could fill. This would also presumably reduce the impact that local private industry feels when there is a deployment. For example, one can imagine a system where health care professionals work in Veteran's Administration hospitals when not deployed as White Berets, earning substantial tuition benefits, or where sanitation engineers work in municipalities at federally-subsidized rates, conditioned on their being called to service. Such systems would be checked by the Posse Comitatus Act and other statutory bars, but should be possible in some form.

The more ideal the republic, the less these incentives are necessary, because citizens of civic virtue will recognize the great importance of intervention and will volunteer to facilitate its effectuation.

¹⁹⁰ In a less than ideal republic, the rate of voluntarism could be enhanced if the volunteers could enlist conditional on their acceptance into the White Berets, bringing in those individuals interested in "doing good" around the world or those concerned about being deployed to particularly hazardous environs. Naturally, aggressive marketing would enhance recruitment and retention.

¹⁹¹ Similarly, a civil engineering platoon may only need one or two engineers, so long as some soldiers are trained in surveying and others are taught to use construction equipment.

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jority, or at least plurality, of these units would consist of soldiers chosen for some combination of military skill and humanitarian temperament.¹⁹²

This distinction between members of the same unit has the potential to divide the group, so training with these units should emphasize not only the new (or anticipated) rules of engagement but should also focus on creating and maintaining unit cohesion. During weekend or month-long service, the professional member of the unit should train in small unit tactics, weapons use, and other soldiering skills. Likewise, even the primarily combat-oriented unit members should train for accomplishing the unit-specific goals, with the goal of getting the Berets to view the unit as a team to which each person contributes equally.

Furthermore, White Beret units should be specially prepared to deploy on a much smaller scale than traditional ones. For a traditional conflict, an entire division or battalion can expect to be mobilized at once. Given the skill-based focus of the White Berets, however, some crises may demand portions of the division while other portions are entirely unnecessary. Although units would be structured to ameliorate this problem, training the White Berets to act in tandem with less familiar comrades is crucial, especially since they will often be deployed alongside troops of different nationalities and expected to work as a coherent whole.¹⁹³

When a White Beret unit is deployed into hostile territory, such as a Somalia I or II setting, it would almost certainly be advisable to maintain a centrally-located unit of heavier forces, such as Rangers or other elite combat units. These units would serve both as combat support, to extricate the interveners if things went bad, and as a deterrent to those who might wish to challenge the inter-

The potential to acquire these skills, particularly if they are accompanied by the possibility of acquiring skills that are marketable in the civilian world (such as training to become a surveyor, foreman, registered nurse, emergency medical technician (EMT), or physician's assistant), might provide additional incentives for soldiers to seek positions in the White Berets.

¹⁹² The model for this kind of soldier is the military policeman (MP). MPs carry lighter armaments and operate under a more civilian mindset. On a parallel note, see HART, *supra* note 146, 49.

¹⁹³ This also suggests that language skills may be a reasonable selection criterion for White Berets. It also provides another field of training useful in civilian life that White Beret units could make available, either through direct education or through tuition credits.

veners.¹⁹⁴ While the presence of these soldiers and their equipment may risk the loss of some of the diplomatic gains of using White Berets, the safety of the interveners demands this precaution. To that end, the White Berets should train in joint operations with likely “strike” units and should be familiar with standing army psychological operations, civil affairs, and special forces units, since cooperating with them will be essential.

White Beret equipment should focus on portability and humanity. While it is not necessary to follow the French lead and arrive in a country wearing flip-flops, the advisability of heavy flak jackets or night vision gear may vary. Accordingly, the White Berets should train both with and without this gear, so that its absence does not become a source of anxiety. Their vehicles should emphasize all-terrain capability, since the climates they will encounter are unknown and since they will often have to operate for extended periods without paved roads. While these vehicles should be armored, they do not need to be as heavily protected as true armored vehicles. Again, in a Somalia I or Rwanda type operation, the resistance can be handled effectively with vehicles similar to Hummers.¹⁹⁵ Even in a Somalia II operation, the heavy combat would be left to other units. In a Yugoslavia-type intervention, their role would be limited to peacekeeping; the suppressive activities would be left to regular forces.¹⁹⁶ Of course, the White Beret units would have to have on hand the necessary special equipment to carry out their missions. For some units, this equipment will be a mobile field hospital or a bridge-laying machine.¹⁹⁷ For others it might be prepackaged legal forms and police batons. In a humanitarian in-

¹⁹⁴ Note that by holding these units in reserve and keeping them together, the state ensures that they will be ready to re-deploy in their more traditional role on roughly the same notice as if they had been kept stateside. Use in this way minimizes the readiness costs of their involvement.

¹⁹⁵ The lighter individual equipment and vehicles would also enable the White Berets to deploy more quickly and with a smaller logistical “footprint.”

¹⁹⁶ “In contrast to peacekeeping, peace enforcement is an activity that may be undertaken without the consent of all the parties, and is likely to involve the use of force beyond self-defense. It follows, then, that at the high ends of the spectrum, such a force might be indistinguishable from war-fighting units.” ELINOR C. SLOAN, *BOSNIA AND THE NEW COLLECTIVE SECURITY* 7 (Praeger 1998). While the White Berets could include in their ranks a group of units dedicated to this heavy fighting, there does not seem to be much value added in such a structure as long as the White Berets are operationally familiar with the units that are likely to serve this role.

¹⁹⁷ These heavier units would be slower to deploy and would have a larger logistical footprint.

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tervention, having a typewriter may be more important than having a heavy machine gun. The key is to assess the potential needs before deployment and have all the equipment, military and mundane, ready when the call comes.

Finally, it is important to note that auxiliary forces have traditionally lacked the support services to help their families cope with the peculiar stresses of peacekeeping operations.¹⁹⁸ Furthermore, communities must be reminded of the civic virtue in this kind of service and encouraged to support the interveners to the fullest extent. Where possible, the tours of duty for these forces should be kept short; other White Berets should be rotated into tours of duty.¹⁹⁹

By structuring a force in this way, one combines the optimal republican ideal of the citizen-soldier with the practical realities of modern humanitarian intervention. When the necessity of developing specialized amphibious landing units was recognized, the Marines were created. When the conflicts in Korea and Vietnam demonstrated the need for military guerilla warriors, America began to emphasize special forces. Humanitarian military interventions fundamentally differ from traditional warfare, while specialized units are similarly necessary. The White Berets would provide the necessary tools that would not only help to ensure successful interventions, but also would provide ancillary benefits for the American republic.

IV. CONCLUSION

There are several reasons to believe in humanitarian military intervention, ranging from the broadly theoretical to the deeply practical. Nevertheless, by and large, the American people have rejected it, believing, as many military officers do, that peacekeeping is not a soldier's job. One solution is to define an intervention strictly and in a way that does not encompass state-building. This could help avoid the paranoia over mission creep that has plagued interventions since Somalia. Nevertheless, this impoverishes the

¹⁹⁸ See *The Training and Preparation of Military and Civilian Peacekeepers*, Summary of Proceedings, Aberfoyle House, Magee College, University of Ulster, June 13-15, 1996, Columbia International Affairs Online (CIAO) at <https://www.cc.columbia.edu/sec/dlc/ciao/conf/inc02/inc02.html> 4.

¹⁹⁹ This has the benefit of spreading the cost of intervention across many communities and simultaneously seeding those communities with citizen-interveners who could explain their experiences and foster public discussion.

concept of the intervention, reduces its potential benefits, and may in certain cases undermine any chance of success. For example, in Somalia, the traditional military force initially viewed its mission in limited terms, terms which did not include the establishment of a civil government. The absence of emphasis on these matters eventually came back to haunt the U.S. forces who were faced with the reality that the aid was getting through only because they accompanied it, but that when they left, things would quickly return to the status quo ante. The only long-term solution to this problem was, therefore, the removal of the threat facing the convoys – interdiction by warlords, including their de facto leader, General Aideed. However, no infrastructure was in place to take down General Aideed. The absence of civil affairs resulted in an absence of information about clan leader locations, motivations, and, most fatally, tactical plans. None of this is to say that a more flexible strategy, even one executed by the ideal version of the White Berets, with full psychological operations and civil affairs support, would have prevented the October 3rd disaster that cost eighteen American, and countless Somali lives. It is only to say that the failures of conception and of operational identity virtually foreclosed the possibility of an effective intervention over the long term.

Looking further into the 21st century, it must be acknowledged that some of the 19th century powers had it right. There is something to be said for replacing combat boots with flip-flops in these operations. While force remains necessary, and while the ability to pacify any resistance quickly and effectively must be maintained, it seems from the French example that native populations do not need a constant reminder that overwhelming force can be brought to bear. Australia, while not itself a colonial power, has shown that the natives can themselves become part of the solution if properly organized and trained. The lesson is uncomplicated: an intervention has little chance of reaching the people where interveners cannot be comfortable without flak jackets and full combat harnesses. No longer is it as important that natives accept troops' authority so much as accept their humanity. Humanitarian interventions are not about "kill or be killed." They are not about standing at fifteen meters and trying to place a 5.56 mm slug where it will do the most damage. They are more akin to the Peace Corps than to the Marine Corps. They are focused on building police stations and obtaining trust, not building trenches and obtaining toe-holds. In a world where low-intensity conflicts and humanitarian

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military interventions are going to continue to be an essential part of foreign policy, particularly for republics, the old toolbox no longer works.

The task of force structuring affords the world's leading republic a chance to become more republican. Using citizen-soldiers in the intervention units is the first step, but having those same citizens actively fostering discussion in their local town halls is equally essential. Humanitarian military intervention has the possibility of doing as much for the republic as for the target community, but only if the republic is willing to risk its most precious resource, its citizens of civic virtue, as its armed ambassadors.

