

Humanitarian Intervention and Just War

A Comparative analysis of India's interventions in Bangladesh, 1971, and Sri Lanka, 1987-1990

Bo Christoffer Brekke



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Preface

I first heard of the Just War Tradition through a Master's course in the spring semester of 2007, and was immediately fascinated by the prospect of combining political science with moral philosophy. This fascination was combined with my personal interest in South Asia, nurtured by a total of over 13 years' residence in Sri Lanka and Bangladesh, to provide me with a topic with which my enthusiasm is undiminished even after almost a year of study. The degree to which the issues and cases at hand interest me can perhaps be gauged by the length of the current thesis, which has somewhat exceeded the provided guidelines. On this note, some choices were made over the course of the study in cooperation with my advisor which contributed to the length of the thesis – such as maintaining the empirical reviews of the respective cases in the case study chapters, rather than incorporating them as appendices. On the whole, however, I would claim that the length of the thesis is due to the complexities of the issues at hand, combined of course with my keen interest in the chosen topic.

At this point I would like to thank all those people whose support was vital to my being able to complete this thesis. First of all, I would like to thank Henrik Syse, my advisor for the spring semester of 2008, for excellent guidance and assistance, provided in an inspiring and generous way. I would also like to thank Professor Gregory Reichberg at PRIO, for some helpful advice in the initial phases, and for putting me in touch with Kaushik Roy, to whom thanks are in order for assistance with finding reliable empirical material related to the two chosen cases. Finally, I must thank Professor Janne Haaland Matlary, my advisor for the fall semester of 2007, for confirming the feasibility of my proposal and getting me started with some helpful literature tips.

On a personal note, I must thank all my friends and family for encouragement and support, particularly as the writing of this thesis has coincided with difficult times due to the sad loss of my father. To my dear Jenny, thank you for supporting me, encouraging me, and motivating me to keep going.

My unending gratitude, in particular, goes to my parents, to whom I owe my widened horizons and my belief in the importance of an application of morality in all aspects of life. I will always feel privileged to have been given the opportunities that your choices have given me.

Bo Christoffer Brekke, Oslo: 22 May, 2008

In loving memory of my father

Bo Brekke
1957-2007

Map of South Asia



Source: Center for South Asian Studies, University of Toronto

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1. Introduction: The Morality of Humanitarian Intervention

1.1 Introduction

“Should India invade Nepal?” This was the surprising title of a discussion thread on an Indian blog that I came across by chance while doing research for this thesis (Jal 2005). The context of the discussion was the highly turbulent situation in Nepal following the ruling monarch's dismissal of the parliament, in essence a political coup d'etat. The question, elaborated underneath the catchy title, was based on an editorial that the host had read in the *Times of India* (Barman 2005), and was quite simply whether or not it would be legitimate for India, as the dominant regional power, to invade Nepal, restore order, and establish a temporary Indian protectorate aimed at consolidating peaceful democratic rule in the country. The question, however bluntly stated, rested on a fair enough (albeit unquestionably naive) assumption: that such an invasion could greatly benefit the people of Nepal by bringing them democracy and safeguarding their human rights. Furthermore, India herself would benefit, gaining an ally and improving the general regional stability.

I know little about the credibility of the author of the editorial being debated, Abheek Barman, or how seriously the question was meant. However, Barman certainly made some interesting reflections:

Actually, the only policy that makes sense for India is this: export governance and institutions to Nepal. Run it as a protectorate. It is pointless to agonize over Kathmandu's sovereign rights. When states fail, as Nepal has done, sovereignty is a dangerous idea that empowers despots and their cronies. Today, Gyanendra's sovereignty has trapped the people of Nepal, 42% of which are officially poor, in a cycle of violence and misery. Freedom has to be earned.
(Barman 2005)

It is not unlikely that the whole intention of publishing the editorial was to start a debate and generate publicity. If this was the case, it was highly successful; the discussion-thread on the blog featured a large number of responses, mostly overwhelmingly negative to the suggestion. Counter-arguments were made on moral, legal, and practical grounds, often accompanied by historical and contemporary examples of dramatic failures at such enterprises. Among others, a recurring example was India's failure to bring peace to Sri Lanka in the late 1980's, with the “Indian Peacekeeping Force.” Another hot topic of criticism was the unashamedly imperialist essence of the suggestion. However, not all commentators dismissed the suggestion entirely, and the very fact that the question had been posed in the first place implied the opinion that such an undertaking could, with reference to the noted potential benefits, possibly be considered morally justifiable. It was hinted that

something similar had been done before, in East Pakistan in 1971, when India's invasion helped bring about the creation of a new state, Bangladesh, which at the time of India's departure was relatively democratic and peaceful.

The straight-forward formulation of the suggestion made it an easy target for those who wished to blast the idea as outrageous, and the author as a dangerous imperialist who had forgotten the humiliation that India herself had had to suffer during its centuries under foreign control. However, to me the question was a striking formulation of an important and highly interesting moral question: is it morally permissible for outsiders to intervene in the internal affairs of a sovereign state, even by use of military means, if the aim is to create a better humanitarian situation for the citizens of the target country? What was being suggested was nothing more outrageous than a humanitarian intervention, unmasked by “politically correct” rhetoric. True, the proposal of turning Nepal into what was provokingly labeled an “Indian protectorate” did push the suggestion beyond the realm of simply intervention and dangerously close to the realm of imperialism. But the underlying questions remain: if, by invading Nepal and “exporting governance and institutions,” India could create a better situation for the country's inhabitants, would it really be immoral to do so? Why should the abstract concept of “sovereignty” hinder India from intervening to bring Nepal's population out of the “cycle of violence and misery” that they are currently trapped in?

1.2 Humanitarian intervention and moral dilemmas

The concept of humanitarian intervention, defined as “coercive interference in the internal affairs of a state, involving the use of armed force, with the purposes of addressing massive human rights violations or preventing widespread human suffering,” (Welsh 2004:3) has been a topic for moral reflection for many centuries. While moral arguments in favour of interventionism throughout much of history have been made with reference to religious obligations and holy texts, be it Biblical texts in Medieval Europe or Hindu teachings in ancient India, the contemporary debate about humanitarian intervention often revolves around the concept of universal human rights. The 1990's witnessed an increased use of the concept of humanitarian intervention in international relations, as humanitarian arguments were increasingly featured in defence of military operations worldwide (Wheeler 2000:14). Post-Cold War, humanitarianism has been invoked as a greater or lesser part of the justification for military operations of as varied character as, for example, the Western interventions (or, in the case of Haiti, a threat of intervention) in Somalia, Haiti, Kosovo, Afghanistan, and Iraq. In much the same way as the “struggle against terrorism” label increasingly has been used as a justification for all sorts of military activities all over the world following the events of 11 September 2001, often placing a misleading label on those

activities, the label of “humanitarian intervention” was placed on a greater array of activities over the course of the 1990's, often in an attempt to justify military actions undertaken for other, sometimes less than noble reasons. A moral “right”, or even *duty* to intervene in other sovereign countries to prevent violations of human rights is increasingly gaining acceptance in the international community, and as a result such a right is being invoked with increased frequency (Welsh 2004:2).

From a moral perspective, it is hard to dismiss the virtue of protecting human rights for all individuals, even those living outside one's own country. But disregarding the intuitive moral appeal of a perceived right of humanitarian intervention, it is a concept that poses some very real threats to international peace and stability. Importantly, the presence of such a right threatens the principle of inviolable state sovereignty, a vital stabilizing aspect of modern international relations. Realists in particular highlight the fact that the idea of legitimate humanitarian intervention opens the way for military interventions for selfish objectives, justified by the pretence of humanitarianism (Wheeler 2000:29). After all, perceptions of right and wrong can always be accused of being subjective, and with few widely held objective standards by which to judge the morality of actions in the international sphere, any action might conceivably be manipulated to appear “moral” with reference to some particular norm or ideal, or according to high-minded but vacuous rhetoric, no matter what the underlying intentions or actual aims.¹ As a result, a concept of legitimate humanitarian intervention opens the way for increased insecurity in the international community, as states have reason to be worried about interventions from other states, undertaken either on genuine humanitarian grounds or on selfish grounds justified with reference to “acceptable” humanitarian arguments.

On closer inspection, furthermore, the concept of humanitarian intervention is not as morally straightforward as it might appear at first sight. On the contrary, it is a principle that introduces many moral dilemmas. If humanitarian intervention is indeed morally legitimate, as public opinion might indicate, who is entitled to intervene, and what means can legitimately be used? If interventions can be justified in the face of human rights abuses, can one intervene justly in defence of *any* citizens facing human rights abuses, or does some scale of abuse need to be present before foreign intervention is mandated? In that case, how much abuse of human rights needs to have occurred in order for intervention to be a morally acceptable option? There is also the question of pre-emption: it would logically seem more moral to intervene *before* human rights abuses occur, to prevent them, than to intervene after the fact. But can one ever be certain enough about an impending disaster to justify such pre-emption? On another note, can the killing of some people

¹ I owe part of this formulation to Henrik Syse.

(i.e. soldiers of an oppressive regime – themselves perhaps forced into service) in defence of the lives of others (i.e. civilians) ever be defended on a strictly moral basis? These are tough questions, none of which have text-book answers.

Following from this brief introduction to the topic, it is clear that the issue of humanitarian interventions is a controversial one, and that the idea that such interventions are morally just has potentially far-reaching consequences. The concept of state sovereignty can be said to be moving towards a concept of *conditional* sovereignty (Matlary 2006). Global opinion both amongst the general public and in important policy-making circles is shifting towards the view that the safeguarding of human rights for all people should have preference over respect for the sovereignty of oppressive regimes. At face value this is a viewpoint that appears almost commonsensical, but the potential implications of such a state of affairs – increased insecurity and instability, the potential for manipulation by greater powers of acceptable humanitarian arguments to justify the pursuit of selfish objectives – can conceivably render the entire concept of a “right” to humanitarian intervention immoral.

The aim of this short discussion is to make clear the fact that the topic of humanitarian intervention is much discussed and arguably a very relevant issue in the contemporary world, making it a highly worthwhile topic of study. The current thesis aims specifically to discuss some of the *moral* issues associated with the question of humanitarian intervention.

1.3 Morality vs. legitimacy

Before going forward to further describe the purposes of this thesis, an important distinction needs to be made that pertains to the examination of specific humanitarian interventions, namely the distinction between the two separate concepts of legitimacy and moral assessment². The discussion of whether or not specific interventions are *legitimate* should be kept distinct from the discussion of the *morality* of those interventions. The *legitimacy* of a humanitarian intervention can be understood as the way in which the intervention is *perceived by the general public*. Legitimacy understood in this way depends on a number of factors. One aspect of legitimacy, but often not the most important one, is the separate concept of legality. One other very important factor that affects the legitimacy of any intervention or war is the outcome. For example, many today point out that if the USA indeed had succeeded in transforming post-war Iraq into a peaceful functioning democracy, far fewer would likely be as critical to the intervention than is the case today. Indeed, it is not presently possible to predict how this intervention will be regarded in future history-books;

² For this point I thank Professor Gregory Reichberg for valuable input, and Henrik Syse for important clarifications.

the long-term outcome of the intervention will probably to a great extent determine its perceived legitimacy.

Along with the outcome, another factor in determining people's view of an intervention's legitimacy is the very real influence of media hype and propaganda. Rhetoric often has a crucial influence. This can be illustrated with reference to the Internet discussion described in the introduction. The amount of criticism that the suggestion of invading Nepal provoked bears witness to the important observation that the way an intervention, or a potential intervention is *presented* has a great effect on its perceived legitimacy. Had the proposal been "sugar-coated", labeled, as in the Sri Lankan example that will be described later, as an "Indian Peacekeeping Force" or something of the kind, the responses might not have been so universally condemning. In discussions surrounding humanitarian interventions, as in most other discussions about politically charged topics, rhetoric can often be a crucial variable. The implication of this is that the underlying moral questions sometimes get overshadowed, if not entirely ignored in such discussions.

With this in mind, it is important not to confuse an analysis of what determines the legitimacy, in the sense of the publicly perceived legitimacy (or alternatively the legal or political legitimacy) of a humanitarian intervention with a moral assessment of such an intervention. A moral assessment is an analysis of an action based solely on moral criteria. As such, a moral assessment *can* be a factor in determining legitimacy, but rarely on its own, as shown above. Media or public opinion, on the other hand, plays little or no role in determining the outcome of a moral assessment. Legality might, according to some, affect the moral stature of an action, but not all agree on this point, as will be shown later. It follows from this that there can be such a thing as a *morally just but (as publicly or legally perceived) illegitimate* intervention, and indeed also such a thing as a *morally unjust but (as publicly or legally perceived) legitimate* intervention. Furthermore, the degree of military success *in itself* does not affect the morality of an intervention. However, factors directly affecting the military success, such as the degree of planning and means used can also directly affect an intervention's moral stature.

Studies of the legitimacy of specific humanitarian interventions are thus different in character from studies of the morality of such interventions. While the former might be able to say something about the conditions under which interventions are acceptable to the general public, the latter can give a deeper insight into the moral stature of humanitarian interventions in general, and the conditions under which interventions can be considered *morally* acceptable or unacceptable on a more fundamental basis. It is the latter which constitutes the larger aim of this thesis.

1.4 Case studies

This thesis, then, aims to approach some of the moral issues associated with the concept of humanitarian intervention. In order to do this, I will perform case studies of two specific cases of such intervention: India's interventions in Bangladesh in 1971 and in Sri Lanka in 1987-1990. Both of these cases have already been mentioned once in the introduction, the former being used in the mentioned Internet discussion as an example in favor of intervention, the latter serving as a warning against it.

Contemporary discussions surrounding humanitarian interventions are often, as mentioned, colored by media coverage of specific interventions and the rhetoric used in that coverage. Typically, the interventions most discussed are interventions by the USA and “the West” in developing countries. Moral assessments of potential interventions are often lost in the drama of political manoeuvring in the run-up to those interventions, and moral judgements are often clouded by nationalist emotions frequently invoked by politicians on different sides, or empathy evoked by graphic media coverage of humanitarian suffering in the target country. With reference to the above distinction between morality and legitimacy, this paper aims to approach the important topic of humanitarian intervention from a strictly moral perspective. This implies a detachment, in essence, from all the “emotion” that often accompanies discussions of such interventions. To avoid much of the misleading humanitarian rhetoric of recent times, I have chosen to study two interventions that *arguably* can be characterized as humanitarian³, but that occurred before the “era” of humanitarian interventions that followed the end of the Cold War. Furthermore, the choice of studying two interventions that took place on the Indian Subcontinent can serve to detach the topic from the general focus, at least in the mainstream discourse on Western interventions in non-Western countries. This thesis will thus approach the topic of humanitarian intervention from a moral perspective, through the moral assessment and comparative analysis of India's interventions in Bangladesh in 1971 and in Sri Lanka in 1987-1990. These cases will be described at greater length in their respective chapters, but at this point I will briefly introduce the two.

1.4.1 Bangladesh

In 1971 India intervened in a civil war in East Pakistan. Established as a part of Pakistan at the partition of India in 1947, Pakistan had long been dominated economically, culturally, and politically by the Western wing of the country. Following a convincing election victory by a party based in East Pakistan on a platform of partial autonomy for the East, the central military

³ The second case, that of the Indian intervention in Sri Lanka, was labelled a “peacekeeping force”, and as such is not commonly labelled as a humanitarian intervention. However, I will justify my classification of the intervention as a humanitarian intervention in chapter 5.

government, in a move to maintain its power, jailed the party's leader and commenced a violent and widespread persecution of intellectuals, political leaders and minority groups in East Pakistan in 1971. In response, the East Pakistani people began a struggle for independence from the West, and a secessionist civil war began. The war and the Pakistani Army's atrocities led to a huge flow of refugees over the border to India, whose government quickly lent its support to the East Pakistanis, giving increasing amounts of aid and assistance to the East Pakistani Freedom Fighters. Matters escalated, and it eventually became clear that India was determined to intervene militarily in support of the Freedom Fighters. The situation culminated in a pre-emptive Pakistani attack on India and an ensuing full-scale Indian invasion of East Pakistan, which quickly led to the victory of the secessionist forces and the creation of a new independent state, Bangladesh. After order was established, Indian troops pulled out, leaving control of the new country to the leader of the victorious party in the former elections, Sheikh Mujibur Rahman. The intervention was a success.

1.4.2 Sri Lanka⁴

In 1987 India again intervened in a civil conflict in a neighboring country, this time in Sri Lanka. The Sri Lankan government had since 1983 been engaged in a war with a rebel group, the Liberation Tigers of Tamil Eelam (LTTE, or “Tamil Tigers”), who were (and still are) fighting for an independent homeland in the north and east of Sri Lanka. The background to the civil war was an ethnic conflict between the majority Sinhalese population and the minority Tamils. By 1987, the LTTE had obtained control over much of the north of the country, including the strategic city of Jaffna, and the central government was engaged in a major offensive aimed at recapturing the city. The Indian government had a history of covert support for the Tamil movement, largely a result of the large Tamil populations in southern India. Following the Sri Lankan government offensive in 1987, the Indian government violated Sri Lankan airspace with military aircraft in order to drop humanitarian aid to the population of the besieged city of Jaffna, citing the “suffering of the Tamil population” as justification, and signaling its intent to intervene militarily if the Sri Lankan government continued its offensive against the Tamil movement. On the basis of obvious threats from its militarily far-superior neighbor, and clearly against its own wishes, the Sri Lankan government agreed to sign a treaty with the Indians known as the Indo-Sri Lanka Agreement, which called for a cessation of hostilities in Sri Lanka, and opened the way for an “Indian Peacekeeping Force” (known as the IPKF) to be sent to Sri Lanka to ensure peace. The force arrived in Sri Lanka, but soon became embroiled in what can be characterized as all-out war against the LTTE, the representatives of the very people they had initially intervened to protect. After three years of war,

⁴ This paragraph is based on an earlier paper, “The Indian Intervention in Sri Lanka's Civil War 1987-1990,” written by the author in 2007.

the IPKF was unpopular both at home and in Sri Lanka (with both Tamils and Sinhalese), and following changes of administration in both countries the force was pulled out, having failed both in the objective of bringing peace and in bringing down the LTTE. Hostilities between the Sri Lankan government and the Tigers soon resumed with renewed vigor. The intervention had been a failure.

1.4.3 Why these cases?

Apart from personal interest in the Subcontinent and the cases in question, several interesting similarities and differences exist between the two cases that sparked my interest in analyzing them from a moral perspective. A few points of interest can thus briefly be noted about the two cases at this introductory stage. Of the two, the Bangladesh intervention lacked a legal mandate in the form of a supporting UN resolution, while the Sri Lanka intervention had legal backing in an international treaty signed by the two countries' heads of state (the IPKF coming to Sri Lanka after a formal invitation by the Sri Lankan president). The intervention in Bangladesh was a large-scale military operation aimed essentially at splitting a sovereign country in two, while the intervention in Sri Lanka was (at least initially) a smaller military operation aimed at preserving the unity of a sovereign country. Furthermore, the Indian government relied more on a humanitarian justification in the latter case than in the former (which was presented to a greater degree as “self-defense”). Taken together, these factors would *initially* seem to point to the conclusion that the intervention in Sri Lanka should be regarded as the more “just” of the two, at least from a humanitarian intervention perspective. However, in popular opinion, the opposite seems to be the case, as mentioned in the introduction; the Bangladesh case is often referred to as an example of a justifiable humanitarian intervention (Walzer 1977, Wheeler 2000), while the Sri Lanka case has been widely criticized and even labelled “India's Vietnam” (Rediff.com 2000), with all the negative connotations this entails (both morally and militarily). At first glance, then, the Sri Lanka case is *popularly* perceived as illegitimate, while the Bangladesh case is popularly perceived as legitimate, despite the fact that some basic aspects of the cases would initially point to moral assessments of the opposite values.

One aspect that sparked my interest in comparing these two cases, then, is the fact that there seemed to be a disparity between the apparent morality of the two interventions and their perceived legitimacy. Is the Bangladesh case glorified as a case of morally just humanitarian intervention simply because it led to a positive humanitarian outcome? And, similarly, is the Sri Lanka case criticized as immoral simply because the Indian Army ultimately failed in its attempt to end a civil war that no doubt was leading to a poor humanitarian situation in the country? These are some of the questions that compelled me to study these two cases from a comparative perspective.

Answering all of them may be beyond the scope of this thesis; but I will certainly approach them over the course of my study.

1.4.4 Theoretical framework: the Just War Tradition

To get to the root of such questions, what is needed is an objective moral assessment of the two interventions based on moral criteria that are as free as possible from the subjective perceptions of legitimacy that inevitably result from seeing the cases in retrospect and knowing the way that the military actions ultimately played out. The term objective might not be the best term to use with reference to a moral assessment; after all, in subscribing to certain moral criteria, one can be accused of making a subjective choice. However, the assessment will be as objective as possible *taking for granted* the particular moral criteria chosen for the assessment.

What is needed, then, is a set of moral criteria that can be applied to both cases. Such a set of criteria can be found in the Just War Tradition, a philosophical tradition that can be traced back to Christian theologians in the European Middle Ages, and further back to Greek and Early Christian thought in Antiquity. For centuries, the philosophers of the Tradition have grappled with the moral problems of why, when, and how war should be fought. The underlying assumption of the Tradition can be said to be not one of pacifism, but an assumption that war *can* be a morally just activity when it is a response to injustice, and under certain circumstances (Syse 2003). A significant aspect of Just War thinking has revolved around creating applicable criteria for when a war can be regarded as “just”. Although different just war thinkers over the years have posited different criteria and have disagreed on the relevance of each others' criteria, a specific body of criteria for just war can be identified, and the *general* content of the tradition's criteria has been relatively consistent over the years.

This list of criteria will form the basis for the theoretical framework that I will apply in my analysis of the chosen cases. I will describe and discuss the various criteria in chapter 3. Briefly, Just War criteria are often divided into criteria regarding “just recourse to war”, or *jus ad bellum*, “just behavior in war”, or *jus in bello*, and “justice after war”, or *jus post bellum*.⁵ Common *ad bellum* criteria include that a war must be fought for a “just cause”, with the “right intentions”, and be declared by a “legitimate authority”. *In bello* criteria include the principle of discrimination, meaning respect for the distinction between soldiers and civilians. An example of a *post bellum* criterion is the requirement that peace settlements should “secure those basic rights whose violation triggered the justified war” (Orend 2002:55). In this thesis's context, and as a result of constraints on time and space, I have chosen to focus the analysis on *ad bellum* issues, or issues pertaining to

⁵ This distinction of categories, particularly the inclusion of the separate category of *jus post bellum*, is a relatively recent phenomenon in the Just War Tradition, as I will return to in chapter 3.

the decision to go to war (or in these cases, to intervene). As a result, these will be in focus for the remainder of the thesis.

At this point, one question that naturally imposes itself is whether or not a framework based on a philosophical tradition that has its roots mainly in Western, Christian civilization, can legitimately be applied to cases in which the main actors come from a separate cultural and philosophical background. The question is highly relevant; the Indian civilization has its own rich cultural and religious heritage, and Hindu philosophy can be credited with its own, separate conception of just and unjust war (Brekke 2006, Roy 2007). However, I am of the opinion that a philosophical tradition such as the Western Just War Tradition is, if rightly understood, universally applicable. I will attempt to justify this claim in the following; the context in which the Just War thinkers (particularly in classical Just War thinking) operated was the context of European society and politics, European history, and not least a Christian philosophy and world view. Regardless of this, however, Just War philosophers studied (and still study) the *concept* of war – a universal concept. Although their *views* on this concept invariably were colored by the realities of European (and later American) politics, society, and warfare, they are still a set of views that pertain to a *universal* concept. The philosophers of the tradition do not aim to speak of what is “right” or “wrong” for *Europeans* to do in the questions of war⁶. They aim to speak of what is “right” and “wrong” in the case of war in general.

Furthermore, as mentioned, the Just War Tradition has existed for centuries, and despite a drastically changed context (in terms of major structural aspects of international relations, the status of religion in society, etc), the major arguments featured in the tradition have largely remained consistent. This consistency lends a certain degree of authority to the Just War Tradition, and bodes well for the applicability of its criteria to different settings.

A central practice of political science is the application of several different perspectives to the same issues. Applying different theories to the same data will yield different results; sometimes, this is precisely what leads to interesting new conclusions and discoveries. As such, I see no problems with applying a Western framework to South Asian cases, no less than I would see problems with applying Hindu philosophy in the analysis of Western cases. Your perspective will inevitably influence your results; sometimes it is precisely the application of a new perspective to existing cases, or the same perspective to new cases, that yields interesting conclusions.

It is important to stress, then, that the criteria that I have chosen build on a philosophical tradition springing out of Western Europe. My results will undoubtedly be colored by this.⁷

⁶ With the notable exception of some earlier Just War thinking, which specifically deals with what Christians can legitimately do in their contact with other “heathen” peoples.

⁷ And they will be colored by the fact that I, myself, have a “Western” background of values (albeit one that has been

However, as long as this is not forgotten, I see no fundamental problem with this practice. That being said, chapter 3 will briefly review just war thinking in the Hindu tradition, pointing out some of the points in which this tradition coincides with the Western tradition, and some points where the two differ, in order to shed some light on the applicability of the Western Just War framework to the chosen cases despite the existing cultural disparities between the West and the Subcontinental civilization.

1.5 Research question

I start, then, from the following platform: I wish to study some of the moral issues that arise from the concept of humanitarian intervention, and the way in which I choose to do this is by performing case studies of two such interventions. The two interventions mentioned above share several important characteristics, and differ in some important ways. Interestingly, they seem to differ in terms of *perceived legitimacy*. The nature of their similarities and differences and the differing legitimacy make a comparison of the two highly interesting. Keeping in mind that legitimacy and moral assessment are two different concepts, the former not necessarily being based on the latter (although they may overlap or coincide), I wish to perform a *comparative moral assessment* of the two interventions. Such an assessment is interesting in light of the contemporary debate on the morality of the often casually applied concept of humanitarian intervention, a debate that, although also present at the time of the interventions at hand, has become a mainstream discussion primarily after these two interventions took place.

In order to perform such a moral assessment, it is necessary to structure the case studies around some clearly defined moral criteria. To this effect I will apply a pre-defined set of moral criteria based on the Just War Tradition to both cases, with a view to determining the moral status of the two interventions based on these criteria. I will then perform a comparative analysis of the results. This process will not only entail a generic application of moral criteria to two empirical cases; it will also allow me to engage in a critical discussion of the criteria used, while both selecting specific criteria and applying the criteria to the data. Furthermore, because what are being discussed are moral criteria that claim universal validity, a discussion and application of these criteria will be able to lead to conclusions that can be generally applicable.

My research question is the following:

affected by many years' residence in South Asia).

Were the Indian interventions in Bangladesh in 1971 and in Sri Lanka in 1987 morally just, and what seem to be the most important factors in determining the moral status of the two interventions?

As mentioned, I will first apply criteria from the Just War Tradition in order to evaluate the moral status of both interventions, before performing a comparative analysis aimed at determining which factors seem to be most important in the two cases. Along the way I will engage in a critical reflection around the applied criteria. If I conclude that one intervention was easier to justify morally than the other, I will examine why this is the case. Based on which criteria did the cases differ, and what can this tell us about the relative importance of different considerations when entering into humanitarian interventions, and indeed about the applicability of the criteria themselves? If I conclude that both interventions (seemingly, as I mentioned earlier, contrary to popular opinion) were of a similar “moral character,” I will examine which common factors seemed to lead to this outcome. The comparative design is thus vital to the purpose of the thesis. Many criteria exist that are claimed to affect the moral stature of military actions, as I will outline later. Hopefully the comparative analysis will allow me to make some conclusions about the relative importance and relevance of some of these criteria when it comes to the specific contemporary question of humanitarian intervention.

The purpose of the thesis, then, is not only to look at the two cases in isolation, but also to see whether any lessons can be learned that can be applied to the contemporary world. Any generalizations will of course be made with reservations, as I am well aware of the dangers of making generalizations based simply on case studies. But the aim of the thesis, ultimately, is to contribute to the general discussion about the morality of humanitarian intervention.

1.6 Structure of the thesis

The thesis will as mentioned be designed as a comparative case study. A more detailed description of the research design, research methods, data sources, and some methodological reflections will be presented in chapter 2. Following this I will in chapter 3 set the stage for the analysis, by placing the cases in the context of contemporary international relations and presenting the Just War Tradition, selecting from it the moral criteria that will serve as the theoretical framework for the ensuing discussion. In chapter 4 I will analyze the first case, that of the Indian intervention in East Pakistan in 1971. I will present the case in relative detail, justifying my use of the label “humanitarian intervention,” before applying the chosen theoretical framework to make some conclusions about the intervention's moral stature. The same procedure will be followed in

chapter 5 for the second case, that of the Indian intervention in Sri Lanka in 1987-1990. Chapter 6 will consist of the main analytical portion of the thesis, the comparative analysis of the results of the two previous chapters. Finally, in chapter 7, I will summarize the main conclusions, and evaluate the applicability of the main findings from the previous analytical discussions.

The thesis, as mentioned, will be normative in character. As is the case in most works of political science, I will be applying a theoretical framework to a set of data, and analyzing the results. However, I hope that critical moral reflection throughout the course of the thesis will give it greater depth than would be the case in any simple application of theory to data. The topic being discussed is an important one, and indeed one that is hotly debated. However, much focus is now on the technicalities and politics of humanitarian interventions. The intention of the current thesis is, in essence, to go “back to the basics” of humanitarian intervention. What I aim to approach, through the discussion of the chosen cases, is the question of the morality of the very existence of such interventions.

2. Research Design, Methods, and Data

Before proceeding with the study itself, it is necessary first to make some methodological reflections. As indicated in the introduction, the thesis will involve two individual case studies, and the comparison of these two studies. The purpose of the studies and the comparative analysis is to make some generalizing observations regarding the conditions under which humanitarian intervention is morally justifiable. In a general sense, the thesis will be of a normative character, based on the analysis of existing empirical evidence. Each of these points warrants some methodological comments. This chapter will therefore make some reflections regarding the use of case studies in general, focusing particularly on the question of the extent to which such studies can legitimately serve as the basis for generalizations. Thereafter, the comparative design will be further presented, and some considerations made regarding the use of the comparative method in general. Subsequently, some notes will be made regarding normative analysis as a research method, and the implications of this method for issues such as reliability. The final section of this chapter will then make some critical comments regarding the nature of the chosen data sources and their applicability to the activity of normative analysis.

2.1 Case studies and generalization

The case study is in certain academic circles, notably in the field of political science, arguably accorded a somewhat secondary status as a method of scientific research. John Gerring (2004:341) captures the common sentiment, noting that “[a] work that focuses its attention on a single example of a broader phenomenon is apt to be described as a “mere” case study.” The reasons for this are many, but often the criticism aimed at the case study pertains to the alleged difficulty of making reliable generalizations based on studies of a small number of empirical units – generalization, one should note, thus implicitly being regarded as the enviable end-point of scientific research. This criticism is particularly relevant in light of the current thesis, the larger purpose of which is precisely to make some generalizable observations regarding the moral status of the concept of humanitarian intervention. As such, some comments regarding generalization based on case-study research are in order.

A common argument against the use of case studies in social science, then, is the difficulty of making reliable generalizations on the basis of “small-N research.” The argument is mainly that the detailed study of one or a few cases is ill equipped to say anything about the larger universe of

potential cases. Case studies, by this view, are well suited to uncovering the *uniqueness* of individual “units” or cases. Capturing the uniqueness of a small number of cases, however, does not intuitively seem directly compatible with generalization, which rather aims to approach *commonalities* between all potential cases. The argument is certainly logical.

Such objections notwithstanding, generalization is a frequent goal of case-study research. Despite the intuitiveness of the objections to making generalizations based on one or only a few cases, doing so need not be problematic if one keeps in mind one important distinction: that “case studies, like experiments, *are generalizable to theoretical propositions and not populations or universes*. In this sense, the case study, like the experiment, does not represent a “sample,” and in doing a case study, your goal will be to expand and generalize theories (analytical generalization) and not to enumerate frequencies (statistical generalization)” (Yin 2003:10, emphasis added). The argument against generalizing on the basis of small-N research thus falls away if one shifts perspective, maintaining a focus on *theoretical*, rather than statistical generalization. The crucial factor in ensuring generalizability of case study results, then, is the chosen theoretical framework. Following this line, Yin (*ibid.*) stresses the importance of theory development – the development of a solid theoretical framework to guide the ensuing case study – in the startup phase of case studies with a generalizing aim. As he notes, “[t]heory development does not only facilitate the data collection phase of the ensuing case study. The appropriately developed theory also is the level at which the generalization of the case study results will occur” (*ibid.*:31).

The interplay between theory and the empirical data is thus of vital importance in ensuring methodologically sound case-study research with generalizable results. It is in this way that the current thesis intends to generalize: the chosen theoretical framework will first guide the empirical studies and, in turn, be revised by it. It is such “analytical generalization” that case studies with their detailed review of empirical evidence are aptly suited to provide the basis for. Generalization on this basis occurs not in the sense of making “inferences about a population (or universe) on the basis of empirical data collected about a sample,” (Yin 2003:32) but in the formulation of new theoretical propositions, or the revision of existing theory. These new or revised theoretical propositions, then, may in turn be applied to and tested on fresh empirical evidence.

These observations point towards the need for according significant effort to the construction of a theoretical framework in advance of empirical case studies. This is the intention of the next chapter. This framework will subsequently guide the two case studies that follow. Chapter 6 will then analyze the case study evidence in a comparative light – the setup of which is discussed in the next section of this chapter – before the concluding chapter of the thesis will, on the basis of

the results of the comparative analysis, present the analytical generalizations posited by the empirical studies of the thesis.

One may posit that “the world of social science may be usefully divided according to the predominant strategy of research undertaken, *exploratory* or *confirmatory/disconfirmatory*...” (Gerring 2004:349, emphasis in the original). The current thesis is a good example of the former strategy. The aim is not to confirm or disconfirm Just War criteria, but to see, through the application of a Just War framework on a unique combination of empirical cases, what can be learned regarding the *suitability* of these theoretical propositions in the contemporary context, and to see whether any fresh insight can be obtained into the various moral dilemmas presented by the issue of humanitarian intervention. The inferences in this thesis, however, will as mentioned stem not just from the individual case studies that will be performed, but also particularly from the *comparison* of the two cases. As such, the comparative structure of the analysis warrants specific mention at this point.

2.2 Research design: comparative analysis

“The comparative method” is a term applied by some to a specific method of scientific research⁸. As Collier (1993:105) notes, the act of comparison in itself “is a fundamental tool of analysis,” to a greater or lesser extent implicit in nearly all forms of scientific examination. However, the “comparative method” label describes a method of research distinct from the single case study as it involves several units of analysis, but distinct also from statistical analysis in that the number of analyzed units is significantly less (*ibid.*). The term may not in all senses be directly applicable to the envisioned setup of this thesis⁹, but viewing the thesis at this point in light of “comparative method” terminology in my opinion usefully illuminates the thesis's proposed structure and purpose. Although the case studies on their own are certainly interesting enough to warrant examination, much of the “academic value” of the thesis, as indicated in the introduction, lies in the *comparison* of these two specific cases, and the subsequent implications of this

⁸ Some, like Yin (2003:46), hold there to be no fundamental difference between the basic methodology underlying comparative studies, or “multiple-case designs” as he calls them, and that underlying regular single-case study research, and as such choose not to treat comparative analysis as a separate topic. However, I maintain it to be reasonable to describe the comparative method as a conceptually distinct variant of case study research, at least in the present context, as doing so will provide a clearer indication of the intended analytical design of the current thesis.

⁹ For example, the term comparative analysis is often applied to studies involving considerably more than two case studies. Furthermore, the comparative method is often applied with a view to uncovering causal linkages. Although the current thesis might usefully be conceived of as a causal analysis – seeking to determine which of the “independent variables,” that are the Just War criteria, have the greatest effect on the “dependent variable,” that is the total moral assessment, such a view would be somewhat inaccurate and potentially misleading. Particularly the normative nature of this study conceptually distinguishes it somewhat from the type of study generally implied by the use of the term, as I will return to.

comparison for the theoretical framework, as outlined in the section above. Thus, the comparative research design requires discussion.

My inference from the outset is that these two cases *may* represent cases in which the final assessments differ. At the same time, a rough empirical overview unveils both interesting similarities as well as some central differences between the two cases. My hypothesis is that the common perceptions of the legitimacy of the two interventions are colored by factors such as the interventions' eventual degrees of success. What I am interested in doing first, therefore, is to determine the moral status of the respective interventions from an “objective” moral perspective – hence the individual case studies. What is of further interest, however, is to determine *what*, specifically, determines each respective intervention's moral status, that is, which factors seem to carry most moral weight in this context. The comparative design is of vital importance in this regard. To approach the question, I will apply the same six criteria to both cases, and see where the cases differ along these six criteria. It can be said that this setup is very similar to a case of “most similar systems with different outcomes,”¹⁰ a classical method of comparative analysis (Frendreis 1983:261). Such studies assume differing values on the dependent variables, and relative similarity on the set of independent variables. The comparative analysis of the cases, subsequently, will determine where the two cases differ on the set of independent variables, in the process thus indicating which variables seem to be decisive in ensuring the differing outcomes. The following figure can illustrate such a design:

¹⁰ The topic of comparative analysis has been witness to a methodological debate, the main issue of contention pertaining to the “best” way to perform such analysis, through the use of “most similar” or “most different” cases. For a summary and proposed resolution of this discussion, see Frendreis 1983.

Figure 2.1: Example: Most similar cases with different outcomes

(Independent variables)	Case 1	Case 2
Factor 1	A	A
Factor 2	A	A
Factor 3	A	A
Factor 4	A	A
Factor 5	A	A
Factor 6	A	B
Outcome (Dependent variable)	X	Y

The content of the individual cells represents the traits of the individual cases with regards to the factors being analyzed. As one can see, the application of such an approach allows one to uncover precisely where any potential discrepancies between the two cases lie. In the above example, it becomes clear that factor 6 was the decisive factor with regard to determining the final score on the dependent variable, as this was the only factor upon which the two cases differed. Applied to the case at hand, the independent variables can be conceived of as the individual Just War criteria, and the dependent variable can be conceived of as the final moral status of each intervention. Applying the logic of the above design, a comparative analysis of the two cases will be able to indicate quite clearly where the two cases are alike and where they are different, thus potentially indicating which factors were decisive with regards to the morality of the interventions. Important to note also is that the premises of the study do not collapse if the moral assessments do not come out “as expected.” If the two case studies arrive at *similar* moral assessments, the setup will be just as helpful in indicating the criteria along which the cases were alike, the inference being that these criteria were important in ensuring the final assessments.¹¹

Of course, a nuanced perspective is in order; particularly the fact that there are only two cases being compared in the current thesis entails that any conclusions must necessarily be cautious.¹² Furthermore, comparative analysis can seldom justly propose to *prove* linkages between independent and dependent variables – certainly the potential for doing so is non-existent when only two cases are compared. A more correct conception of such analysis is rather that it may serve to “direct the attention of the researcher to specific variables which then must be interpreted in the light of relevant theoretical propositions and, depending on the problem analyzed, specific historical

¹¹ As Frenreis (1983) would note, the underlying *logic* is identical in the different forms that “the comparative method” takes.

¹² On a positive note, however, this fact does provide an interesting avenue for pursuing future research on the topic.

knowledge” (Ragin & de Meur 2000:755). Such is also the extent of the ambition of the comparative analysis in this thesis – to *indicate* the relative value of the different criteria vis-à-vis moral assessments of the chosen cases. The prospect of applying these indications to make conclusions regarding what exactly renders such intervention moral or immoral in more general terms, as I have indicated, represents much of the purpose of the thesis. That being said, such conclusions must be made cautiously.

To sum up, the general setup of this thesis can usefully be seen as following the structure of a classical comparative analysis, potentially the structure of an analysis of “most similar cases with different outcomes.” As I have indicated earlier, however, the nature of the study is still somewhat different from the nature of classical comparative studies of this type. This is largely because the *normative* character of the analysis substantially distinguishes it from the act of causal analysis, which is most frequently the purpose of such studies. As such, a few comments are in order regarding the methodological implications of the normative dimension of this thesis.

2.3 Normative analysis

In a normative thesis such as this one, unambiguously “right or wrong” answers are rare; as such, “filling in” the cells of the above table might be tricky. An underlying assumption of this thesis is, of course, that moral assessment is both justifiable and feasible; moral truths do exist, and one need not avoid proposing concrete moral assessments where these are reasonable. That being said, normative analysis is of such a nature that specific considerations are necessary.

The main “danger” in pursuing normative evaluations is that they become unstructured, excessively subjective, and thus completely unverifiable. Subjectivity, to be sure, plays a role in all types of scientific research, at the very least implicitly in choices regarding, for example, what should be studied and how. The “problem” of subjectivity, however, becomes substantially more pressing when what is at issue is normative in character. To mitigate this potential problem and ensure a balanced normative analysis, therefore, it is crucial in a normative analysis to apply a clear structure and strive for a consistent application of definable, or at least recognizable guidelines. The current thesis will strive to achieve this by maintaining a disciplined discussion of the two cases along each Just War criterion; the application of the same set of criteria on both cases will form a good foundation for making a credible valuation of the moral stature of the cases and serve to make these valuations comparable. It becomes clear, then, that the formulation of a criteria-set and an application of the same approach and the same standards to both cases is vital to ensure a methodologically sound normative analysis in the present case. For this reason, considerable effort will be laid in the formulation of the theoretical framework in the next chapter. When this is done,

the application of a clear structure has several “rewards”; along with being the only way to ensure comparability between the final moral assessments, applying the same theory to two different cases will provide a good foundation for a critical reflection about the importance and applicability of the individual criteria as they are applied, thus laying a solid foundation for the mentioned “analytical generalization.”

Both the requirements for generalizing from case studies, the wider requirements of normative analysis and the specific requirements of the thesis's comparative design thus call for a sound pre-defined theoretical framework. In addition to these considerations, the need for a clear structure is further called for by the general methodological requirement of reliability. This requirement basically posits that another researcher performing the same analysis on the same data should be able to arrive at the same conclusions. Unambiguous adherence to this maxim may seem fundamentally impossible in cases of normative analysis which by definition involve a considerable dose of subjectivity. Nevertheless, even normative analysts should strive to approach this ideal. To ensure this, in the present thesis's context, it is imperative to adopt clear guidelines for the analysis, and consistently apply these guidelines throughout both discussions. Furthermore, it is important that the guidelines applied are reasonable, as well as being clearly and understandably presented.

In sum, normative analysis requires suitably analytical tools. In this thesis, the Just War Tradition provides a suitable “tool box”. The framework that will be further discussed in the next chapter is based on a widely recognized and respected normative tradition. Furthermore, it is a framework that provides identifiable (if not unambiguous) moral guidelines. As such, I believe that I have a solid tool for the normative analysis, fulfilling the main requirement for a methodologically solid academic work of a normative character.

2.4 Data sources

The research design thus sufficiently described and discussed, the final major methodological point that requires discussion pertains to the data that will be used. On this note, the analyses in this thesis will be based on existing written sources; I will conduct no new “data collection” as such. To ensure sufficient “data triangulation,” the data used will be varied in origin, and the sources will be of both primary and secondary character.

Primary sources used include official documents – treaties, declarations, and letters exchanged between heads of state – and transcripts of speeches and statements made by central decision-makers in the relevant cases. The use of primary sources is particularly possible in the Bangladesh case, statements regarding which from all sides of the conflict are well documented and

easily accessible. The use of such sources is important as it gives “uncorrupted” indications of the opinions, arguments, and intentions of the most important actors.

Secondary sources, however, can be just as interesting, particularly in the context of a normative analysis. When it comes to the secondary sources, then, these will take the shape of press articles, articles from academic journals, and published books by authors of varied degrees of partiality in the relevant conflicts. The vital point that needs to be made regarding these is that many of them are highly biased. The nature of secondary sources is that the data presented in them to a greater or lesser extent has been colored by the author's *interpretation* of the material being presented. Most secondary sources, then, have some inherent bias. The degree of bias in many of the sources used in this thesis is further augmented by the fact that they stem from authors who have a distinct interest in the conflicts covered. As such, many of the sources provide colored presentations of the way the conflicts transpired. It is thus imperative that they be read with this in mind. S.J. Tambiah notes in the preface to one of the books that I have cited that his work “is an “engaged political tract” rather than a “distanced academic treatise”” (Tambiah 1986:ix). Such is the nature of many of the works that I have used. It is crucial that these sources are taken for what they are, and not viewed without recognition of the inherent bias that they inevitably hold.

Once this is recognized, however, the use of and citation from these sources is useful. A normative assessment such as this thesis is well-served by citing different perspectives and opinions, and *evaluating* these differing perspectives in light of more or less “objective” guidelines and standards. The moral assessments that I will perform require knowledge of the argumentation used by different sides of the conflict and indications of the intentions and opinions of the various interested parties. Biased sources provide exactly such knowledge and such indications. The analysis will include weighing differing perspectives in light of the chosen framework. As such, several of the sources that I have used have been picked out precisely for their particular bias. In sum, however, it remains imperative that biases are recognized and acknowledged, and the opinions of the cited works not uncritically taken as truth but rather as what they are: opinions of self-interested, engaged parties to a conflict.

Both cases will thus be analyzed partly in light of books written by “engaged” actors. These sources will again be supplemented by the use of more balanced accounts of the two cases, presented in academic journals, foreign press, or other works by more “disengaged” authors. In combination with the primary sources indicated above, I believe this use of sources to be a satisfactory act of data triangulation. The biased sources – both primary and secondary – are interesting as a result of their bias as much as being interesting for their explicit empirical content. Indeed, on a general note, all written sources, be they primary or secondary, can when scrutinized

tell us as much about the people who wrote them as they can tell us about what actually happened (Kjelstadli 1992). Foreign press articles, for example, in addition to potentially serving as *relatively* reliable sources of empirical data, hold a separate interest in that they often can serve as useful indicators of views held in the “popular opinion” in the country of their origin, as the entities of press discourse and popular sentiment often can be said to be mutually reflective. As such, then, a critical perspective on all sources is both necessary and potentially productive; given such a critical perspective, the inclusion of biased sources can be highly rewarding. That being said, it is important, of course, to verify the empirical details presented in the most clearly biased sources. Precisely for this reason, data-triangulation is vital, and specifically the introduction of the more balanced academic accounts aims to serve to purpose of verifying empirical details.

In sum, I believe that the data used on the whole provides the necessary empirical evidence, as well as the necessary basis for making inferences of specific relevance to the normative analysis. All sources used have a distinct function and purpose, and the sum of the sources used, in my opinion, allows me to make justifiable and balanced moral judgments. The crucial requirement is the application of a critical perspective throughout. This is something that I have strived to achieve in the ensuing chapters.

At this point, then, a reasonably extensive picture has been drawn of the purposes for this thesis, the manner in which the research question will be approached, and the caveats with which any ensuing conclusions must come. As such, we may now proceed to present the theoretical framework that will be applied during the remainder of the thesis – the importance of which has been stressed at several points during the present methodological discussion.

3. Just War Theory and the debate on humanitarian intervention

3.1 The context: important aspects of international relations¹³

Before engaging in the case studies and the comparative analysis that will approach the topics that the thesis seeks to address, it is important to set the stage by providing some necessary background information and elaborating on the theoretical foundation for the ensuing analyses. In this regard I will in this chapter first describe the context for the current debate on humanitarian intervention, presenting some important aspects of international relations that shape the contemporary discourse about war and intervention. Following this I will give a closer introduction to the chosen theoretical framework and the tradition from which it stems – the Just War Tradition – and discuss this framework's applicability to the question of humanitarian intervention.

3.1.1. Sovereignty, the principle of non-intervention, and the UN system

“Arguably no principle is more sacrosanct in the modern concept of international order based on the state system than the inviolability of the borders of a sovereign state” (Johnson 1999:81). As such, the debate about humanitarian intervention cannot be separated from a discussion of the concept of sovereignty. The most basic tenet of contemporary international relations is the perception that international society consists of independent, sovereign states. Following from this is the principle of non-intervention: sovereignty entails jurisdiction of all that is within one's borders, and thus no states are entitled to intervene in the internal affairs of another state.

The landmark treaty often credited with institutionalizing the principles of sovereignty, equality, and non-intervention is the Treaty of Westphalia in 1648, which established that each prince was entitled to full jurisdiction over his respective territory and populace. After sovereignty initially was legitimized to a great extent by military power (Matlary 2006:18-25) and associated with the personage of a state's ruler, the French and American Revolutions introduced the thought that “the basis for sovereign authority lay in the people” (Johnson 1999:54-55). When subsequently wedded to the new ideal of “self-determination” at the start of the 20th century, sovereignty was to an even greater extent made to appear an “intractable right” of peoples.

Following World War II, the Charter of the United Nations maintained the principle of sovereignty, adding to it an aspect of multilateralism. The Charter forms the basis for the system of

¹³ Some aspects of this section are based on an earlier paper by this author, “Conditional Sovereignty and the Securitization of Regime Type” (2007).

international relations that exists today. Article 2(1) of the Charter establishes the principle of sovereignty as the foundation of international relations in the UN system: “The Organization is based on the principle of the sovereign equality of all its Members” (Charter of the United Nations 1945). Following this, article 2(4): “[a]ll members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state” (ibid.). The principles of sovereignty, equality, and non-intervention are thus firmly established in the post-WWII system of international relations.

Article 2(7) of the Charter, however, provides simultaneously a confirmation of the non-intervention principle and a potential exception: “[n]othing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII” (ibid.). The allusion to Chapter VII refers to the chapter where the Charter discusses potential UN responses to “threats to international peace and security”. In Chapter VII of the Charter, the UN introduces an important exception to the principle of absolute state sovereignty. The chapter entitles the Security Council, if it determines acts of any member state as sufficient “threats to international peace and security”, to sanction the use of any means, military or non-military, to stabilize the situation.

As will become clear later, this aspect of the international system is an important feature in the contemporary discussion regarding humanitarian intervention. Chapter VII provides a *legal* exemption to the principle of non-intervention, in theory opening the way for a concept of legal interventionism. Moreover, the Charter of the United Nations in its entirety, particularly with the provisions of Chapter VII, establishes a principle of a supranational authority that has the right to infringe on the sovereignty of a member state under certain circumstances. In the contemporary debate about humanitarian intervention, therefore, the United Nations and the Security Council in particular have a central role. The *legal* authority to sanction any military intervention for any reason other than self-defense is through the UN Charter placed solely within the Security Council. Discussions regarding specific humanitarian interventions, as a result, often to a great extent revolve around the question of whether or not the intervention has been sanctioned by the Security Council.

It must be noted that the Chapter VII provisions are highly restrictive, and are not often used. The articles of the chapter require the UN to seek non-military solutions first, and indeed the requirement of Security Council agreement in itself is one that in practice has proven to greatly restrict the implementation of Chapter VII. However, the importance of the Chapter VII exemptions

must not be neglected; they establish a *principle* in the international system, that it is in extreme cases permissible to flout the sovereignty of an independent state. That being said, this is only in very exceptional circumstances; the principles of sovereignty and non-intervention are still vital and central aspects of international relations today. The international consensus on these topics is well summed up in the report of the International Commission on Intervention and State Sovereignty (ICISS) from 2001, a panel funded by the government of Canada to perform a comprehensive study of the “so-called 'right of humanitarian intervention'”, in the face of increased debate about the topic:

Sovereignty has come to signify, in the Westphalian concept, the legal identity of a state in international law. It is a concept which provides order, stability and predictability in international relations since sovereign states are regarded as equal, regardless of comparative size or wealth.... A sovereign state is empowered in international law to exercise exclusive and total jurisdiction within its territorial borders. Other states have the corresponding duty not to intervene in the internal affairs of a sovereign state. (ICISS 2001: 12).

The importance of the concept of sovereignty in upholding stability in the international system, highlighted also in this quote, is unerringly invoked as an argument against intervention in contemporary debates. On the other hand, however, is the argument that the concept of sovereignty sometimes serves as a cover behind which corrupt, tyrannical governments are free to do as they please, often at terrible cost to their respective populations. It is partly this line of argument that has in recent years been effecting a change in the way sovereignty is perceived in the international discourse.

3.1.2 *The emerging norm of “conditional sovereignty”*

Particularly after the Cold War, a new notion of sovereignty has begun to take shape, often referred to as “conditional sovereignty”, which arguably can be said to be “trumping 'substantive' sovereignty as a general development” (Matlary 2006:32). The main principle underlying this new notion of sovereignty is that sovereignty entails responsibility; states and governments exist only so that they can protect the basic interests of their citizens. Following from this, states that fail to do so, need no longer be considered sovereign. This concept of conditional sovereignty is by no means restricted to peripheral circles in the international community. Consider the following statements from Kofi Annan, former Secretary-General of the United Nations:

State sovereignty, in its most basic sense, is being redefined – not least by the forces of globalisation and international cooperation. States are now widely understood as instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty – by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties – has been enhanced by a renewed and spreading consciousness of individual rights. When we read the charter today, we are more than ever conscious that its aim is to

protect individual human beings, not to protect those who abuse them. (Annan 1999 in Reichberg et.al. 2006:685)

The view is that sovereignty must not allow corrupt governments to get away with neglecting the basic rights of their countries' inhabitants. Governments exist to protect the “individual rights” of citizens. If they do not protect these rights, they cannot be considered to be legitimate governments. As such, they do not qualify for the guarantee against intervention that sovereignty normally implies. The UN, in a High Level Panel Report from 2003, concluded that “failed states” or other states that drastically fail to protect the human rights of their citizens, in essence cede their sovereignty to the United Nations – by virtue of the UN's role as a protector of human rights, as indicated in the above quote by Kofi Annan – leaving it up to the UN to protect their civilians (The Secretary-General's High Level Panel Report 2003:4). Following from this is a right – even potentially a *legal* right – to humanitarian intervention, so long as the intervention is sanctioned by the UN. Generally, the essence of the norm of conditional sovereignty is, again formulated by Kofi Annan, that state frontiers “should no longer be seen as watertight protection for war criminals or mass murderers. The fact that a conflict is 'internal' does not give the parties any right to disregard the most basic rules of human conduct (Annan 1999 in Reichberg et.al. 2006:690).

The norms of sovereignty and non-intervention, along with the emerging changes in these norms, are important parts of the background for the contemporary debate regarding humanitarian intervention. With this background in mind, I will now proceed to present the lens through which I will view the debate and analyze the chosen cases: that of the Just War Tradition.

3.2 The Just War Tradition

The terms “Just War Tradition,” or “Just War Theory”¹⁴ refer to a long-standing philosophical tradition, often dated back to Saint Augustine of Hippo in 5th century Europe, that extends to the present day (Fixdal & Smith 1998:3). Throughout these centuries, philosophers in the tradition have dealt with the questions of war from a moral perspective, in some cases developing criteria for when a war can be considered “just”. Basically, “[t]he thrust of the tradition is not to argue against war as such, but to surround both the resort to war and its conduct with moral constraints and conditions” (ibid.). The tradition can be characterized as a sort of “intermediary” between the views of war taken by the opposing poles of realism and idealism (Syse 2003:17-39). The Just War Tradition recognizes the reality, and indeed the occasional necessity of war, thus

¹⁴ The term “theory” might, however, be somewhat misleading, as it would be indicative of an excessively high degree of cohesiveness and structure in the tradition. Just War thinking is in reality a general framework for moral discussion regarding the concept of war. As such, I regard it as more suitable to consistently use the term “tradition” in the ensuing discussions.

eschewing the indiscriminate pacifism that often characterized earlier Christian thought on the subject of war. In the words of Augustine, “[i]t is the iniquity on the part of the adversary that forces a just war upon the wise man” (Augustine 354-430 in Reichberg et.al. 2006:72). Recognizing the inevitability of war and the occasional necessity of warfare as an instrument for justice, the tradition aims to inject morality into the realm of war. War inevitably brings great suffering and destruction; thus, morality requires that military force not be used indiscriminately. Just War thinkers, in short, posit that there do indeed exist circumstances where war is the only legitimate option that can be resorted to, even for the most moral statesman. However, the moral statesman will recognize that war is such a destructive instrument that it should be used *only* in these circumstances, and even then with prudence.

Just War theoreticians have for centuries been occupied with discussing what exactly comprise the circumstances under which one may resort to war, and how exactly a statesman should act when he is forced to use armed force, developing moral criteria for just war that can be divided into several categories, as will be discussed in the next section. The moral foundation for arguments by Just War philosophers was for centuries primarily Christian theology. However, the tradition has persisted and evolved in tune with the adaptation and later relative marginalization of religion in European society, with theoreticians increasingly basing their arguments in turn on the Enlightenment version of “natural law” and on the modern conception of universal “human rights,” rather than with reference to Biblical texts or divine law. Regardless of these important developments in the reasoning behind the Just War criteria, there has been a great degree of consistency in the criteria proposed by the tradition's adherents. This consistency, in light of the constantly evolving context in which the tradition's practitioners operated, lends considerable moral weight to the arguments proposed by the Just War Tradition. It is striking that many of the criteria developed in an era of feudal society and religious homogeneity are still used to make moral judgements about military conflicts in today's modern, secular world.

Says James Turner Johnson, when discussing the issue of humanitarian intervention in light of the Just War Tradition, “[t]he distance between the moral reasoning of Ambrose and Augustine and that of ... contemporary just war thinking about intervention is great in historical terms, but small in terms of positions taken. The moral justification for intervention... is grounded in a concern for justice” (Johnson 1999:75). The Just War Tradition builds on an extensive heritage of philosophical arguments that span over centuries. In different contexts – a radically changed society, and not least several revolutions in the nature of warfare itself – and with different rationales, the tradition's practitioners have approached questions of war with a “concern for justice”, and arrived at many of the same answers. This makes a criteria-set springing from the

Tradition a highly applicable theoretical framework also in the contemporary debate regarding humanitarian intervention.

3.2.1 Strands of Just War thinking

As mentioned, the Just War Tradition deals with different aspects of warfare, and is today as a result of this often divided into three separate strands. The first strand concerns itself with the *grounds* for going to military action. Questions regarding “just recourse to war”, or *jus ad bellum*, have long been central in Just War philosophy. However, particularly in more recent times, Just War thinking has increasingly included two more distinct areas of focus: *jus in bello*, which deals with justice *in* war, and more recently also *just post bellum*, which deals with justice *after* war.

It is important to note that all these themes have been dealt with by Just War theoreticians throughout the tradition. The novelty is the separation of the categories – the fact that these topics are increasingly viewed as three distinguishable perspectives – rather than the topics themselves. Despite their separation, it is important that the three strands always be seen in connection with each other. A useful metaphorical view of the Just War Tradition is provided by Brian Orend, a theoretician connected with *post bellum* issues, who likens a “just war” to a surgical operation (Orend 2002:47); for such an operation to be “just”, it has to be performed on the basis of a correct assessment of the patient's need for the operation, it must be performed in a technically correct manner, and it requires adequate rehabilitation and follow-up of the patient. A “mistake” in an of these phases may render the entire operation unsuccessful. This is a good illustration of both the intertwined nature of the three phases of a war, and the necessity of including all three aspects in a discussion of the moral stature of a war. A war, or in this thesis's case specifically a humanitarian intervention, can according to this view in *post bellum* theory not be called just if it is carried out for just reasons, in a just manner, but ends in a blatantly unjust way (i.e. without the right “rehabilitation”). In the same vein, *in bello* theory posits that no just outcome justifies the arbitrary or large-scale killing of civilians, no matter how noble the grounds for going to war. Thus, *ad bellum*, *in bello*, and *post bellum* can be said to represent three clearly distinguishable approaches to analyzing the morality of a war or intervention, but must be seen as complementary and interconnected.

These observations notwithstanding, the inclusion of *post bellum* considerations as a separate category in a moral assessment of a historical event can easily raise some practical and conceptual problems¹⁵. As mentioned in the introduction, the success or failure of military operations can often be very important in shaping the way in which the *legitimacy* of such

¹⁵ Here I thank Professor Gregory Reichberg for important reflections.

operations are viewed by public opinion. However, when attempting to make a *moral judgment* of the actors involved, it is imperative from a moral perspective that the actors are judged on the basis of *what they actually knew and thought at the time*. Following from this, the actual outcome of a military intervention in itself should not be the main determinant in a moral assessment of the intervention. It would be a contradiction to label as immoral an actor who enters into an intervention with pure intentions, a just cause, fights in a moral way, has a genuine belief that the intervention will lead to a better humanitarian outcome, but loses the fight on the basis of unforeseeable or random circumstances, which in any case are endemic in the nature of wars themselves. There is, of course, an important distinction between *foreseeable* and *unforeseeable* circumstances; if an intervention fails on the basis of foreseeable circumstances, this may rightly negatively affect a moral assessment of the intervention. However, if the factors causing the failure of an intervention reasonably seem to have been unforeseeable, it seems unfair to label the intervention unjust. This arguably seems to be the way that popular opinion often works, however: a negative outcome negatively affects the view of an intervention, regardless of how foreseeable or unforeseeable that negative outcome in reality was. Indeed, both conceptually and practically, when making a moral assessment of *post bellum* issues pertaining to an intervention in the past, it is hard not to be colored by the outcome of that intervention. With the benefit of hindsight, it is all too easy to deem obstacles that emerged over the course of an intervention as “foreseeable,” and condemn an intervention as unjust on these grounds.

When attempting to approach *post bellum* issues, then, it is imperative that focus be accorded to the way in which central decision-makers *envisioned* the outcome of the intervention, the way in which they *planned to ensure* the envisioned outcome, and the extent to which any failure was *reasonably foreseeable* at the time of intervention. These can be factors that can directly affect an assessment of the morality of the intervention. For no matter how moral an intervention might be in other ways, if the actor entering into the intervention envisioned an immoral outcome from the outset (such as for example setting territorial conquest as a goal), the intervention as a whole cannot reasonably be labelled morally just. In this way, *post bellum* considerations are vital parts of the *ad bellum* decision-making process. Particularly, the way in which *post bellum* issues are envisioned by decision-makers when entering into an intervention are an integral part of the “right intention” criterion, as well as the “probability of success” criterion, which will both be described in the next sections. Furthermore, the way in which the war is actually ended – i.e. the manner in which a peace-treaty is enforced – can be viewed as an extension of the way in which the war is fought, in other words as an aspect of *in bello* considerations.

In this paper's context I have chosen to focus my analysis on *ad bellum* issues. Although it would have been highly interesting, as the above discussion illuminates, to perform a broader analysis of the two cases including all three categories of just war criteria, such an analysis would be highly time-consuming. Thus, as a result of constraints on time and space, I will build my discussion around criteria pertaining to *ad bellum* issues only. This will allow for a greater depth in the discussion of each criterion. As is clear from the above discussion, however, *in bello* and *post bellum* issues are often intertwined with *ad bellum* questions, and as such the discussion of several of the *ad bellum* criteria will touch upon issues normally associated with the Just War Tradition's other categories.

My theoretical framework, then, will consist of a set of criteria commonly found in the writings of *ad bellum* theoreticians of the Just War Tradition. In the following I will present the criteria that I intend to employ in my analysis of the chosen cases, and relate them specifically to the question of humanitarian intervention.

3.2.2 *Jus ad bellum* criteria

The main question in the *jus ad bellum* category of Just War thinking is basically “what factors need to be in place in order that a decision to go to war can be labelled as morally acceptable?” In answer to this question, a certain list of criteria for what constitutes a “just war” can be identified in the Just War Tradition. Not all thinkers subscribe to all the criteria, and other criteria can also be found. That being said, the criteria that I have chosen to incorporate into my paper are the most commonly found, and are accepted by most Just War thinkers, although there are different views regarding which of these criteria represent *absolute* requirements for a just recourse to war and which criteria can *improve* the morality of a military action. Such disagreements, however, do not lessen the applicability of the criteria-set as a theoretical framework. On the contrary, in fact; in this paper's context, gauging the relative importance of the different criteria vis-à-vis the question of humanitarian intervention is precisely one of my objectives.

Thomas Aquinas, a Dominican friar writing in the 13th century, is often credited with providing the earliest systematized summary of Just War thinking in his *Summa Theologiae* written between 1268 and 1271 (Reichberg et.al. 2006:167). He categorized three main criteria for just war, summarizing much of the Just War philosophy of his age; for a war to be just, according to Aquinas (in Reichberg et.al.:177), it must be fought for a *just cause*, with the *right intentions*, and be declared by a *legitimate authority*. In addition to these criteria one can list three other commonly discussed *ad bellum* criteria: for a war to be just, the recourse to war must be a *last resort*, there must be *proportionality* between the amount of harm caused by war and the good that comes out of

it, and finally there must be *reasonable hope of success* from the outset. Generally, Aquinas' three criteria are seen as the most basic, most important criteria. James Turner Johnson labels the three remaining criteria “prudential criteria”, and maintains that “the priority of [Aquinas' three criteria] must be respected” (Johnson 1999:43). Nonetheless, all of the criteria represent important considerations that should be made when making a moral assessment of any war or intervention, and some would endow greater weight on the remaining criteria than Turner Johnson seems to do. But even in the words of Turner Johnson, “in less clear circumstances the prudential tests serve as a check on foolhardiness among those entrusted with the burdens of statecraft” (ibid.). I will therefore include all six of the above-mentioned criteria in my theoretical framework, although it is natural to allot somewhat more space to the three “classical” points.

In most of the remainder of this chapter, I will introduce and discuss each of these six criteria, citing both early Just War thinkers and contemporary theoreticians, and relating each of the criteria to the topic of humanitarian intervention.

3.3 Just Cause

As a rule just wars are defined as those which avenge injuries, if some nation or state against whom one is waging war has neglected to punish a wrong committed by its citizens, or to return something that was wrongfully taken.
(Augustine 354-430 in Reichberg et.al. 2006:82)

Just cause is the most fundamental criteria in the Just War Tradition. Basically, the criterion states that for a war to be just, it must be fought for a just cause. Following from this logical assertion is the question of what constitutes a just cause. Self-defense is always regarded as a just cause for going to war, in Just War Tradition as in contemporary international law. However, Just War thinking further posits that also offensive war may, under certain conditions, be morally justifiable if carried out for other causes than purely self-defense. The above quote from Augustine, as mentioned often credited as the “father” of the Just War Tradition, summarizes classical Just War thinking's view on the question of just causes for going to war. Just war was often equated with “punishment of wrongdoing”, opening the way for a wide range of “just causes”. Another formulation indicative of the view of just cause in classical Just War thinking is provided by Cajetan, another theologian writing at around the year 1500, who equates just war with “vindicative justice” (Cajetan in Reichberg et.al.2006:240-250).

The use of war as “punishment”, however, is not as widely accepted in more recent Just War thinking. James Turner Johnson credits the 17th century Dutch jurist Hugo Grotius with

“redefin[ing] the idea of just cause itself as rooted in the right of self-defense, thus effectively collapsing the inherited categories of punishment and recovery of property into the third traditional just cause, defense” (Johnson 1999:53). Following this, just cause for war has been increasingly viewed in connection with self-defense. Michael Walzer, an influential Just War thinker of the contemporary era, lays out what he calls the “legalist paradigm”, which comprises what he describes as “the fundamental structure for the moral comprehension of war” (Walzer 1977:61). The essence of this paradigm is that war may be justified in the face of “the crime of aggression” – basically, that just war is equal to self-defense. That being said, the paradigm also posits that “once an aggressor state has been militarily repulsed, it can also be punished” (ibid.:62). Elaborating on this, he discusses the concept of war as punishment, concluding that the argument for war as punishment most frequently entails an intention of deterrence; “[t]he domestic maxim is, punish crime to prevent violence; its international analogue is, punish aggression to prevent war” (ibid.:62-63). As such, punishment is still considered by the paradigm to be morally acceptable; however, it is seen as such only in the light of self-defense – punishing an aggressor will make international society more safe in the future.

A more conservative view of the question of whether or not punitive war can be just is taken by the National Conference of Catholic Bishops in the US in 1983. Writing in the context of the Cold War and the prospects of nuclear escalation, the Conference concluded that “[w]ar is permissible only to confront “a real and certain danger”, i.e., to protect innocent life, to preserve conditions necessary for decent human existence, and to secure basic human rights. As both Pope Pius XII and Pope John XXIII made clear, if war of retribution was ever justifiable, the risks of modern war negate such a claim today” (National Conference of Catholic Bishops 1983 in Reichberg et.al. 2006:671). The notion of punishment as a just cause for war, in sum, has traditionally been an important part of Just War thinking, but is not undisputed, particularly not in modern times. Just cause, most fundamentally, is in contemporary times rooted to an extended concept of self-defense. However, even in contemporary Just War thinking, it is clear that some aspects of the notion that one may justly use war to “avenge injuries” still persists. Turning the discussion specifically over to the question of humanitarian intervention, what does the Just War Tradition say about the morality of waging war in order to avenge injuries done to others? Specifically, what does the tradition have to say about humanitarian suffering as a just cause for intervention?

Ever since Augustine, Just War theoreticians have defended what in essence is the concept of humanitarian intervention. Indeed, Augustine was of the view that force was more justly used in the defense of others than in the defense of one-self (Augustine 354-430 in Reichberg et.al 2006:74-

77). Later Just War thinkers, although upholding the right to self-defense, have continued justifying the use of force in defense of others right up until the present day. Gratian, a monk in the 12th century cited Biblical sources in affirming that “he who fails to ward off injury from an associate if he can do so, is quite as blameable as he who inflicts it” (Gratian ca.1140 in Reichberg et.al. 2006:114). Hugo Grotius, in the 17th century, maintained that war could rightly be waged on behalf of “any persons whatsoever”, if what was at stake was the breaking of “natural laws”: “The final and most wide-reaching cause for undertaking wars on behalf of others is the mutual tie of kinship among men, which of itself affords sufficient grounds for rendering assistance...” (Grotius 1625 in Reichberg et.al. 2006:416). Francisco de Vitoria, in dealing with the Spanish claims to the Americas at the loss of the native populations, lays out a series of morally legitimate claims that the Spaniards may use to justify their wars against the natives (de Vitoria 1557 in Reichberg et.al. 2006:288-308), one of which is that a war can be made “in defense of the innocent against tyranny” (ibid.:306):

I assert that in lawful defence of the innocent from unjust death, even without the pope's authority, the Spaniards may prohibit the barbarians from practising any nefarious custom or rite....The barbarians are all our neighbours, and therefore anyone, and especially princes, may defend them from such tyranny and oppression... [P]roof is the saying: “deliver them that are drawn unto death, and forbear not to deliver those that are ready to be slain” (Proverbs 24:11).

The Just War Tradition, then, has an extensive history of condoning humanitarian suffering in another state as a just cause for war (or intervention). The question, however, is whether any or all cases of humanitarian suffering justify armed response. Assertions like “deliver them that are drawn unto death” might indicate that this ideally would be the case from a moral perspective. However if all human rights abuses warranted military intervention, the effects would be hugely destabilizing, as states would continuously be engaged in mutual interventions. Such a situation is clearly not feasible from a practical perspective, nor from a moral one. Following this line of reasoning, de Vitoria asserts that “not every or any injury gives sufficient grounds for waging war... since all the effects of war are cruel and horrible – slaughter, fire, devastation – it is not lawful to persecute those responsible for trivial offences by waging war upon them. The wicked man 'shall be beaten according to his fault, by a certain number' (Deuteronomy 25:2)” (ibid.:314). Basically, holding on to the conception of war as punishment, the punishment must fit the crime. The question, then, is *how much*, or *what type* of humanitarian suffering justifies intervention?

Specific guidelines in answer to this question do not exist in the tradition – indeed, they are hard to envision. Classical Just War thought often deals with the topic of humanitarian intervention in an abstract manner, quoting Biblical examples or “Christian brotherly love” to underline that the

suffering of others constitutes a just cause for going to war. Consider the following reasoning by Gratian (an extension of an above quote, ca.1140 in Reichberg et.al.2006:115):

The law of valor lies not in inflicting injury but in repelling it; for he who fails to ward off injury from an associate if he can do so, is quite as blameable as he who inflicts it. It is here, therefore, that Moses the saint gave the first proofs of his courage at war. For when he saw a Hebrew being mistreated by an Egyptian, he defended him by striking the Egyptian and hiding him in the sand. Solomon too said: Deliver him who is being led to death (Proverbs 24:11).

Such reasoning – using Biblical examples to prove the point – indeed anchors the right to intervention in profound moral terms. However, Gratian, like many of his fellow philosophers, uses an example at the *individual* level to assert a principle regarding the recourse to war. This serves the purpose of establishing a solid moral principle, but does little to answer the question of what scale of injustice on the level of international relations justifies the “ultimate” response. If anything, it does little to *limit* this right. And an unchecked right to intervention to “ward off injury from an associate” is as mentioned untenable also from a moral perspective, as it certainly would lead to a situation of great instability.

Particularly amongst more recent Just War thinkers, who often deal specifically with the topic of humanitarian intervention, the question of “how much suffering” justifies armed intervention is dealt with more explicitly. The consensus, unsurprisingly, is that a certain scale of human rights abuse needs to be present for a military intervention to be warranted. Two often-cited contemporary Just War thinkers are Michael Walzer and Nicholas Wheeler. Michael Walzer maintains that “[h]umanitarian intervention is justified when it is a response (with reasonable expectations of success) to acts 'that shock the moral conscience of mankind’” (1977:107), while Wheeler (2000:34) posits that only a “supreme humanitarian emergency” gives a foreign state just cause for intervention.. But what kinds of acts are these? What constitutes a “supreme humanitarian emergency”? Would not any emergency be considered “supreme” in the eyes of the suffering populace? And cannot human rights abuses “shock the moral conscience of mankind” regardless of their scale?

Wheeler attempts to give some more concrete guidelines: “It is important to distinguish between what we might call the ordinary routine abuse of human rights that tragically occurs on a daily basis and those extraordinary acts of killing and brutality that belong to the category of 'crimes against humanity'. Genocide is only the most obvious case but state-sponsored mass murder and mass population expulsions by force also come into this category. I also include state breakdown, such as the Somali case, which led to famine and a collapse of law and order” (Wheeler 2000:34). The mentioned International Commission on Intervention and State Sovereignty (ICISS) in 2001

also attempted to set forth some more specific criteria for what would constitute a “just cause” for intervention. Using Just War criteria as guidelines for their work, the panel adopted Walzer's term “acts that shock the moral conscience of mankind” as acts that could potentially provide just cause for intervention. Elaborating on this, they proposed that such “conscience-shocking situations” included “large-scale loss of life, actual or apprehended, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or, large scale “ethnic cleansing,” actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape” (ICISS 2001:32).

These various guidelines fall far short of quantifying a “degree of suffering” that would justify armed intervention. Terms like “large scale ethnic cleansing” or “mass murder” leave a considerable amount of room for divergent interpretations. However, they give an indication that even in the Just War Tradition, particularly as represented by more recent theoreticians, the threshold for justifiable humanitarian intervention is, and should remain, high, as a result of the inherent destructiveness of war. Although there is no doubt that Just War thought considers humanitarian suffering to be a potential just cause for war, the consensus is that only some sort of “large-scale” suffering can present such a just cause, although a more precise definition of what “large-scale” entails is hard to identify.

That being said, the Just War Tradition, with its moral perspective, still gives a wider conception of just cause than does contemporary international law (although the latter to a certain extent is based on the former). In the UN system presented above, self-defense is regarded as the sole just cause for going to war, except when the Security Council declares an action to be a “threat to international peace and security” grave enough to warrant military reprisal. In legal terms then, only an overt act of aggression or a threat to international peace and security grave enough to unite the UN Security Council in condemnation provide just cause for military retribution. Although an increasingly “accepted” practice of interventionism – based, in part, on a more liberal interpretation of what constitutes a “threat to international peace and security” – along with the changing conception of the sovereignty norm described above have sparked a legal debate about the stature of humanitarian suffering as a just cause for armed intervention¹⁶, the consensus in most mainstream legal arenas is still negative to the existence of a legal right to humanitarian intervention not sanctioned by the UN Security Council under Chapter VII, or, indeed, the establishment of such a legal right (Holzgrefe 2003).

¹⁶ The legal debate regarding humanitarian intervention, although highly interesting and relevant, must be omitted from this paper due to considerations of space.

To sum up the discussion of the “just cause” criterion, it is clear that the Just War Tradition provides a wider conception of what constitutes a just cause for going to war, or intervention, than does the contemporary system of international relations. That being said, Just War theoreticians are caught up in the difficulty of balancing the concern for justice – underlined in the general premise of “just war as punishment of wrongdoing” – with the concern for stability in the international system – particularly a topic of reflection for contemporary Just War theoreticians like Wheeler and Walzer. Although humanitarian suffering in principle might be seen as just cause for intervention, particularly according to classical Just War thinking, a discussion of whether *context-specific* humanitarian suffering is a sufficiently just cause for going to the step of military intervention will not always necessarily lead to an affirmative answer. Summing up their discussion of the Just War Tradition's view of the just cause criterion in relation to the humanitarian intervention question, Fixdal and Smith conclude that “the Just War concept of just cause appears to us to lean in favor of a contingent duty to intervene but against the idea of a right to intervene.... Intervention should happen because it has to, because there is an identifiable human duty to do so” (Fixdal & Smith 1998:15).

When discussing the just cause criterion in the case studies in this thesis's ensuing chapters, much focus will be on whether the situations that India was responding to could feasibly be seen to be such “supreme humanitarian emergencies” or “acts that shock the moral conscience of mankind” as Wheeler and Walzer would posit to be just grounds for armed response. The Just War Tradition, as indicated, gives no clear-cut guidelines for answering these questions. However, the tradition does give a general moral perspective on what constitutes a just cause for war that is wider than the conception of just cause in contemporary international law. The moral arguments provided by the tradition surrounding just causes for recourse to war can serve as useful tools in discussing the morality of specific interventions also in the contemporary setting.

More reflections around the question of just cause will be made in the ensuing case study chapters. For now, I will move on to present and discuss the next criterion for just war: “right intentions”.

3.4 Right Intentions

But it is the duty of all magistrates here to guard particularly against giving vent to their passions even in the slightest degree. Rather, if they have to punish, let them not be carried away with headlong anger, or be seized with hatred, or burn with implacable severity. Let them also (as Augustine says) have pity on the common nature in the one whose special fault they are punishing.... Lastly.... let them not allow themselves to be swayed by any private affection, but be

led by concern for the people alone. Otherwise, they very wickedly abuse their power, with has been given them not for their own advantage, but for the benefit and service of others. (Calvin 1559 in Reichberg et.al. 2006:277)

The idea that a just war requires “right intentions” from the party waging the war is a classical Just War concept, but not one that is currently universally subscribed to. In describing the criterion one may usefully draw a parallel to the concept of *mens rea* in Anglo-American criminal law, which posits that an important aspect of any criminal act is the “criminal intent” behind the act. Thus, in judging potentially criminal acts, the underlying *intent* is important in determining the guilt of the perpetrator¹⁷ (Encyclopedia Britannica Online 2008). In a similar fashion, many classical theorists, for example Thomas Aquinas, were of the opinion that a war, even if waged for just reasons and in an otherwise just manner, would be illegitimate if the underlying intentions for entering the war were immoral – in *mens rea* terms, if the underlying intent was “criminal” rather than sympathetic: “For it may happen that the war is declared by the legitimate authority, and for a just cause, and yet be rendered illicit through a vile intention. Hence Augustine says in *Contra Faustum* (XXII, 74): ‘The passion for inflicting harm, the cruel thirst for vengeance, an implacable and relentless spirit, the fever of revolt, the lust of power, and such like things, all these are rightly condemned in war’” (Aquinas 1268-1271 in Reichberg et.al 2006:177).

Another perspective on the criterion of right intention is provided by Francisco de Vitoria, the Spanish theologian who as mentioned was writing at around the time of the Spanish conquest of the Americas. In discussing the question of whether war can ever be just on both sides, de Vitoria comes to the conclusion that, although this is normally not possible, it *can* be the case if the side that is wrong nonetheless goes to war with the genuine *belief* that they are right. “[W]here there is provable ignorance either of fact or of law, *the war may be just in itself for the side which has true justice on its side, and also just for the other side, because they wage war in good faith and are hence excused from sin*. Invincible error is a valid excuse in every case” (de Vitoria 1557 in Reichberg et.al. 2006:322, emphasis in the original). The interesting point to note about this quote is that it in essence raises the criterion of right intention *above* the criterion of just cause. If an actor *genuinely* believes to be acting for a just cause, and enters a war with only the purest of intentions, that actor, in the vocabulary of de Vitoria, is “excused from sin” even if the cause in reality is unjust. Of course, one must keep in mind the context in which the quoted text was written, and the position of the text's author – a professor of theology writing in 16th century Spain. The focus in the discussion of war in that setting revolved around whether or not it was “sinful”; in a religious

¹⁷ The requirement of *mens rea*, notably, is waived in certain types of offences, such as for example statutory rape or bigamy (Encyclopedia Britannica Online 2008). Thus, there are some types of crime which even “ignorance” or a “lack of criminal intent” cannot excuse one from.

context, the virtue of having a “pure heart” is doubtlessly of higher value than in the contemporary context of international relations. Nonetheless, from a more fundamentally moral perspective, is it not indeed unfair to condemn someone as “unjust” if they genuinely believe that what they are doing is for the best?

The question is an interesting one, but so too is the question posed by proponents of the opposing view when it comes to the criterion of right intentions: if a war is fought in a just manner, for a just cause, and leads to a genuinely positive outcome, does it really matter which intentions the actors on the “just” side had at the outset? In the context of humanitarian intervention: if a nation intervenes in another country, ends large-scale humanitarian suffering, assists in the establishment of a peaceful, democratic government in that country, and then successfully pulls out of the country after a short period of time, is it really fair to label that action as “unjust” if the underlying intentions of the leaders of the intervening country in reality were enrichment of their own country by the establishment of a peaceful, friendly trading partner rather than selfless sacrifice to “save strangers”? Morally, this is no simple question to answer.

In response to this question, some contemporary Just War thinkers disagree with the inclusion of the question of intentions as a criterion in the discussion of the moral stature of a war. Nicholas Wheeler, for example, does *not* endorse the view that a war can be rendered illicit simply because of underlying “bad” intentions. In his book *Saving Strangers* on humanitarian intervention, “his” set of Just War criteria does not include right intentions as a “threshold criterion”. What is important for him is that “the motives, and the means employed, do not *undermine* a positive humanitarian outcome” (Wheeler 2000:38, emphasis added). Michael Walzer points out in his historical analysis of “humanitarian” interventions that he has found no case of intervention where the humanitarian motive was the only traceable motive: “[s]tates don't send their soldiers into other states, it seems, only in order to save lives. The lives of foreigners don't weigh that heavily in the scales of domestic decision-making. So we shall have to consider the moral significance of mixed motives” (Walzer 1977:101-102). Following from this, then, if the right intentions criterion were to be implemented in a form as strict as classical Just War theorists seem to imply, few, if any contemporary wars or interventions would ever be likely to be seen as just.

Another difficulty facing the right intentions criterion is of a more practical nature: how can one determine the actual intentions of the involved actors in a discussion of a specific case? Of course, the criteria in the Just War Tradition were not necessarily created with a view a focus on practical applicability, but with the moral purpose of determining right from wrong. In classical Just War thought, the discussion of criteria for just war revolved around the potential “sinfulness” of war, and thus there was really no need in practice to determine the intentions of the warring parties.

It was sufficient to affirm that “vile intentions” could render an otherwise just war sinful; ultimately, this would mean one would face God himself, the ultimate judge, from whom there is no way to hide one's intentions: “[a]t stake is the health of the soul and the prospects for eternal life.... Other people may not know, but nothing is hidden from the deity. Therefore, you must not only act well but mean well” (Fixdal & Smith 1998:16). Classical Just War philosophy, in this way, is not very helpful in making the criteria measurable.

The National Conference of Catholic Bishops from 1993 (in Reichberg et.al. 2006:673), however, gives a useful perspective on how to determine how far a warring party fulfils the right intentions criterion, reading intentions out of actions in war: “During the conflict, right intention means pursuit of peace and reconciliation, including avoiding unnecessarily destructive acts or imposing unreasonable conditions (e.g., unconditional surrender).” In this way, then, a country's intentions in entering into a military intervention can be traced through the country's actions before, during, and after the war. The chosen justification for going to war, the chosen rules of engagement and military strategies, and the intervenor's conduct following the end of military operations can give indications of the extent to which humanitarian objectives genuinely motivate a military intervention. Such practice, importantly, will often necessarily be retrospective; “[t]he way to identify ulterior motives is, in part, by observing discrepancies between rhetoric and action, by finding – usually retrospectively – a record of plans and arguments that discredits the official, publicly stated version” (Fixdal & Smith 1998:16). This, again, illustrates the interconnected nature of the different Just War categories; *ad bellum*, *in bello*, and *post bellum* issues can all be used to shed light on an *ad bellum* criterion.

To sum up the discussion of the right intentions criterion, it is clear that this criterion was seen as highly important by classical Just War theoreticians, who looked at war from a religious perspective, and for whom the practical issues pertaining to the determination of an actor's intentions were not of interest. From the statements of contemporary Just War thinkers, particularly in the discussion of humanitarian intervention, one can read a more “realistic” acceptance of the fact that motives, in contemporary warfare, will never be totally “pure”. Mixed motives are a fact of life, and will be a feature particularly of all “humanitarian” interventions. Indeed, the selectivity of the world's most powerful countries in their choices of military, non-military, or lack of response to humanitarian crises indicates that countries do not chose to intervene in others countries simply for humanitarian reasons (Fixdal & Smith 1998:15-17).

That being said, the criterion is still important. If it is unrealistic to demand pure intentions from an intervening state, I see no way to get around the fact that intentions should matter in a moral assessment of any military action. However, it seems fair in my view to conclude that the

criterion of “right intentions” has moved more towards a criterion of “not completely wrong intentions”. In determining the moral stature of contemporary interventions, it seems, intuitively, that one can sufficiently satisfy the “intentions” criterion if one's intentions are not squarely contrary to or directly impede the objective of creating an improved humanitarian situation. The divinely inspired standard that a war is just only if it is fought in self-sacrificing defense of others seems quite naive if one holds a realistic view of contemporary international relations, and modern Just War thinkers, it seems, recognize this reality.

3.5 Legitimate Authority

A private person has but the right 'to repel force by force with the moderation of blameless defense'. But it is beyond 'the moderation of blameless defense' for a private person to seek revenge for himself or others, just as it is not permitted for a private person to kill the killer of his own father. The commonwealth, however, in defense of its members and itself is allowed not only to repel force with moderate force, but also to exact revenge for injuries to itself or its members – not only against its subjects, but also against foreigners. (Cajetan in Reichberg et.al. 2006:242)

The last of Aquinas' three criteria for just war is the requirement that a war must be declared by a “legitimate authority”¹⁸. Originally, this criterion was meant to prohibit the declaration of war by groups of bandits or mercenaries, or other civilian groupings without proper authority. However, the criterion can still be important in today's world. When related to the question of humanitarian intervention, the question in a contemporary context when discussing the criterion of legitimate authority is, basically: if humanitarian suffering indeed provides a just cause for intervention, and given that such an intervention is carried out with the right intentions, *who* is rightly entitled to sanction or carry out such an intervention? In the contemporary setting, as mentioned, any war that is not obviously in self-defence may only *legally* be declared with backing in a UN Security Council resolution. But who can be said to have legitimate authority according to the Just War Tradition?

Already from the time of Aquinas, legitimate authority to wage war was seen as connected to the concept of sovereignty. In order to uphold order and stability, as mentioned, it was necessary that the right to wage war was not endowed to any man. Following from this, the right to wage war should be endowed only to those who were able to use that right for good: sovereign leaders. Says Turner Johnson, “[i]t is important to note in [Aquinas'] discussion the relationship between authority to have recourse to the sword and the responsibilities of the sovereign to maintain order and justice. This linkage was typical of medieval political thought. It did not so much empower the

¹⁸ Actually, this criterion was often listed as the first of the three criteria in early Just War thought. In contemporary thinking, however, the criterion of just cause is commonly placed at the top of the list (Johnson 1999:46).

ruler to do what he pleased with the armed force at his disposal as lay on him the burden of having recourse to such force as a necessary tool of sovereignty” (Johnson 1999:48).

Particularly for classical Just War thinkers, the criterion of legitimate authority was seen in the light of the criterion of just cause – if just war aimed at “vindicative justice”, it followed that the authority to wage war rested with the entity responsible for ensuring justice. The right to use war in the punishment of wrongdoing was defended with reference to “natural law”: “If one should oppress another's citizens by plundering and injuring them, and the innocent commonwealth could not avenge itself and its citizens by fighting the oppressor, then unpunished evils would naturally remain, and natural reason, which is of a greater ambit providentially than the natural instinct of animals, would be deficient by not providing the commonwealth with the power of revenge.... This seems to be approved by the common practice of all nations, as though it were a natural right” (Cajetan in Reichberg et.al. 2006:243). The authority to wage war, then, lies in the hands of the sovereign state, and *only* the sovereign state. Furthermore, the use of force can be seen as the occasional *responsibility* of the sovereign state, a responsibility that inheres in the very concept of sovereignty itself; the need for an authority that could preside over the administration of justice is precisely what led to the establishment of governments in the first place – the responsibility and the right to wage war in the pursuit of justice is thus inherent in the very definition of a state, or “commonwealth”.

The conception, furthermore, was that “... under natural law, different commonwealths need not share a mutual prince” (ibid.:242). This was elaborated in the following: “a private person has a proper superior to whom he can appeal for revenge against his enemies domestic or foreign; and hence by his very nature he has no vindicative authority... The commonwealth itself, however, or the prince, because it is so endowed by the perfection of nature, as has been shown, has vindicative authority, and so it is not necessary that it appeal to a superior for such authority” (ibid.:243-244). Consider also the following statement by Francisco de Vitoria, quoted earlier in the discussion of just cause: “I assert that in lawful defence of the innocent from unjust death, *even without the pope's authority*, the Spaniards may prohibit the barbarians from practising any nefarious custom or rite...” (de Vitoria 1557 in Reichberg et.al. 2006:306, emphasis added). Thus, at this early stage of the concept of sovereign states, these thinkers asserted that sovereign states did not need to answer to any “higher authority”, indeed, the existence of a higher (temporal) authority than the state was precluded by “natural law”. In traditional Just War thought, then, the sovereign state, by virtue of not having any “proper superior to whom he can appeal for revenge”, has the inherent authority, by “natural law”, to pursue vindicative justice.

How does the Just War Tradition then deal with the contemporary situation, where the UN Security Council can arguably be said to present such a proper superior? As discussed above, the contemporary debate regarding humanitarian intervention to a great extent focuses on the role of the Security Council, that has the only *legal* right to mandate an intervention into a sovereign state. In contemporary Just War thinking, therefore, the criterion of legitimate authority is still highly applicable. The question is now whether only the UN Security Council has legitimate authority to sanction the use of force for purposes other than defense, such as international law would claim, or whether it also can be morally just for a sovereign state to use force without the backing of the UN's authority.

According to Mona Fixdal and Dan Smith (1998:11): “in the debate over the legitimate basis for authorizing humanitarian intervention in the 1990s has advanced little beyond what the Just War tradition had managed by the sixteenth and seventeenth centuries.” It seems that the answer to the legitimate authority question still conventionally leans towards the conclusion that such authority remains with the sovereign state. In the words of Nicholas Wheeler, discussing humanitarian intervention, this should be one of the cases “where ethical concerns should trump legality” (Wheeler 2000:41). The fact that intervention without UN permission is *illegal*, does not necessarily render such intervention *immoral*, if the humanitarian suffering is of a sufficient scale to present a just cause for armed response. In cases where the cause is just, individual sovereign states can still be considered to have legitimate authority to wage war without having to answer to a higher authority. This view is seconded by Michael Walzer: “I don't think that there is any moral reason to adopt that posture of passivity that might be called waiting for the UN (waiting for the universal state, waiting for the messiah...)” (Walzer 1977:107). This is not to say that the UN's authority is seen as somehow immoral. However, there can be no doubt that the UN in general and the Security Council specifically often represent an *ineffective* authority. The ICISS maintained that the authority to legitimate interventions should rest with the UN alone. Still, even the ICISS recognized the problem of UN inaction, formulating the dilemma in the following question: “where lies the most harm: in the damage to international order if the Security Council is bypassed or in the damage to that order if human beings are slaughtered while the Security Council stands by[?]” (ICISS 2001:54).

It seems a reasonable conclusion to the discussion of the legitimate authority criterion to say that although the UN, both morally and legally, might *ideally* be the only authority that can legitimately order the use of force for purposes other than defense, Just War thinkers, both historically and in the contemporary situation, see the sovereign state as an authority that can legitimately apply force if it is applied as an instrument for justice. The legitimate authority

criterion is linked to the concept of sovereignty, a concept which, as I outlined earlier in this chapter, has undergone dramatic changes over the centuries. Sovereignty is no longer seen as originating from God. Nor is sovereignty the right of the strongest military leader. Regardless of the basis for sovereign power, however, the Just War Tradition has long maintained, and still to a certain extent maintains that the authority to wage war lies with the representatives of each sovereign state.

Sovereignty is now seen to stem from the people, and sovereign authority presupposes the protection of the best interests of the people. Morally speaking, then, the authority to wage war should rest with whatever entity most rightfully represents the people and most genuinely is interested in protecting the good of the people. Although the UN ideally represents such an entity (and perhaps would argue that through its Charter it *is* the highest protector of the good of mankind), the UN's ineffectiveness still means that at present, the state is often that entity. A morally superior entity that could sanction the use of force might be the ideal solution; but the UN Security Council is not an infallible, moral entity, but an organization whose actions to a great extent are decided by the political interests of the various member states. In the context of humanitarian intervention, most Just War thinkers would no doubt maintain that UN sanction should always be *sought*, time permitting. However, when the Security Council fails to act in defense of innocent civilians suffering, few Just War thinkers would deny that other states might legitimately use force on a unilateral basis.

This view of legitimate authority leads to one important conclusion that will be taken into the later discussion of the two cases: in contemporary terms, the Just War Tradition does not require that humanitarian interventions be *legal*, in terms of having been ratified by the Security Council, in order for them to be morally just. Mona Fixdal and Dan Smith, when relating the legitimate authority criterion to the topic of humanitarian intervention, propose that “the legitimate authority criterion can be regarded as responsive to the other criteria. The more glaring the injustice to be remedied, the less clear the authority may need to be; conversely, the more there are alternatives to the use of force, the more solidly grounded the authority for intervention must be” (Fixdal & Smith 1998:12). This is an interesting proposition that can be kept in mind when comparing the two cases that will be analyzed.

3.6 Last Resort

... if they must arm themselves against the enemy, that is, the armed robber, let them not lightly seek occasion to do so; indeed, let them not accept the occasion when offered, unless they are driven to it by extreme necessity.
(Calvin 1559 in Reichberg et.al:277)

The first of the criteria labeled by Turner Johnson as “prudential”, this criterion requires that all other avenues that might credibly lead to a solution to the problem must be exhausted before military action is legitimated. From a moral perspective, this criterion initially seems quite straightforward; owing to the cost and destructiveness of war, one should always look for other solutions first. However, practical issues raise some difficult questions.

The main argument against the last resort criterion in the context of humanitarian intervention is quite simply that the sooner an intervention occurs, the more lives it is likely to save. If time is spent attempting in vain to find peaceful solutions, an intervention may come when it is too late. A requirement of trying out all other possibilities first may lead to unnecessary delay in implementing the necessary force, leading to civilian suffering and death that could have been avoided had one acted faster. Furthermore, as was the result of the “Appeasement” approach chosen towards Nazi Germany, attempting peaceful solutions to a conflict might simply serve to allow the target state to consolidate its power, leading to a conflict that ultimately is more bloody than it would have been had action been taken sooner.

In response to this, it seems that Johnson's label of the last resort criterion as a “prudential criterion” is fitting. A sensible interpretation of the criterion is that all other *feasible* means should be attempted, or at the very least seriously considered, before one goes to the radical step of making use of military means to intervene in a volatile situation. As such, one should strive to apply the criterion not in a strictly *chronological* sense, but in a substantive way: non-military means should always be seriously considered ahead of military means, but not necessarily *attempted* if deemed unlikely to succeed. In this way, the criterion very much captures the essence of Just War thinking: war is not something one should actively seek or wish for, but something that, recalling Augustine, is “forced upon the wise man by the iniquity on the part of the enemy.” There should therefore be a general reluctance towards going to war, and such a reluctance naturally implies that one seek all other conceivable options first. However, this reluctance to use force must not compromise the ability to see when the use of force is necessary and inevitable. If so happens, the reluctance to use the “tool” of warfare can compromise the effectiveness of this tool when it is finally implemented. From a moral perspective it is clear that it is sometimes better to act quickly and perhaps *prevent* massive bloodshed than it is to wait too long and only act when a humanitarian disaster has long-since begun, a truth also recognized by the ICISS, in its assertion that “large-scale loss of life, actual or *apprehended*” provide just cause for intervention (ICISS 2001:32).

In sum, the last resort criterion is important in that it discourages the light-hearted resort to arms. It re-affirms the principle that from a moral perspective, non-violent means are always preferable to violent means, provided they can achieve the same positive outcome. Thus, the

criterion's applicability to a moral assessment of an intervention is clear: if a positive humanitarian outcome could have been achieved without the use of military force, the morality of putting people's lives in danger through the unnecessary use of force must be questioned.

3.7 Proportionality

In the *ad bellum* phase, the requirement of proportionality basically entails that a war or intervention “must do more good than harm” (Fixdal & Smith 1998:19). According to Syse (2003:106-107), the *ad bellum* proportionality criterion has at least two aspects. Firstly, the good that is accomplished by a military action must not be outweighed by the suffering that war entails. Particularly in the context of humanitarian intervention, this is a critical question; the whole justification for the concept of humanitarian intervention is in its aim of alleviating human suffering in the target state. If more people die, and more people suffer by a war itself and its aftermath than would have suffered otherwise, it is hard to label an intervention as “morally just”, or indeed justify calling it “humanitarian”.

This conception of the proportionality criterion, however, poses some uncomfortable moral questions. How can one measure the relationship between “good” and “bad” resulting from an action such as a military intervention? Can good and bad be indicated by purely consequentialist estimations of the amount of human casualties that would result from intervening versus the estimated number of casualties that would result from not intervening? And practically, how can such estimates ever accurately be made? This reveals “a basic problem with the consequentialist arguments. It is difficult to measure the good and bad consequences of an action in a complex situation, when full information is not available, and when the bad to be avoided is, by definition, more a matter of speculation than calculation” (Fixdal & Smith 1998:20). Except perhaps in cases of extremely obvious and widespread suffering, it is impossible to know what would have happened if one chose the opposite path; military interventions are uncertain undertakings, even, as has been amply proved, for dominant superpowers such as the United States. Success is never guaranteed, and consequences are often hard to predict. As such, the proportionality criterion, understood as the need for a positive balance between good secured and bad caused, is both hard to ascertain and hard to secure.

Reviewing the above paragraph, it seems apparent that making assessments of proportionality, in this sense of the term, might practically be easier to achieve retrospectively. Following a war, one might have concrete casualty-statistics that can be weighed against some operationalized measure of “good”— ethnic cleansing stopped, refugees returned, or similar measures. Such comparisons may quite clearly indicate whether an intervention can be said to have

created the desired balance of good over harm. It must be stressed, however, that the criterion is an *ad-bellum* criterion, and as such the implicit understanding of the requirement is that it demands that an intervention was *likely* to produce the necessary positive balance – not only that it ended up doing so. Determining this, as we have indicated, is a more difficult undertaking, implicitly requiring some form of counter-factual speculation.

With these observations in mind, to ensure that the proportionality criterion is adequately met, the assessments around this aspect of the proportionality criterion in the ensuing case studies will take the shape both of retrospective analysis and counter-factual argumentation, thus covering both the questions of whether the respective interventions *did* create a positive balance of good over harm, and whether intervention was the right course of action *at the respective points of decision-making* with a view to ensuring such a positive balance. While answers to both questions to a certain extent will be speculative, the former is potentially the least so, hence the relevance of its inclusion. The latter question, on the other hand, is more difficult to ascertain. However, approaching it is both important and very much achievable, particularly when the question is seen in connection with the criterion of reasonable hope of success, which will be presented next.

The criteria of proportionality and reasonable hope of success, then, should be seen as closely related. Before discussing the latter, however, we move on to briefly discuss the second aspect of the proportionality criterion, as interpreted by Syse. This is that there must be a proportional relationship between the scope of the “crime” being punished and the measures taken. Using Walzer's terminology, all aggression justifies a response, but not all aggression justifies *armed* response. Some aggression might for example justify economic sanctions, but not be sufficiently grave to warrant a direct military response.

In this sense of the term, the criterion is somewhat more easily applicable. As formulated by de Vitoria in his statement quoted earlier (in Reichberg et.al. 2006:314), “since all the effects of war are cruel and horrible – slaughter, fire, devastation – it is not lawful to persecute those responsible for trivial offences by waging war upon them.” In this way, the proportionality criterion can be seen as an extension of the “just cause” criterion. Although humanitarian suffering *in principle* can provide a just cause for war, full-scale invasion would for example be a highly disproportionate response to non-lethal human rights violations being carried out on a small scale in a neighboring country. The punishment, again, must fit the crime; the response, no matter how just the cause, must always be measured and proportional.

Taken together, these two aspects of the criterion of proportionality aim to ensure that a war does not cause more harm than it does good. Although some causes are always just in principle, in

practice war is a drastic and potentially highly destructive tool. The proportionality criterion, in essence, is another call for restraint from the Just War Tradition.

3.8 Reasonable hope of success

One important criterion remains to be discussed. Even where a legitimate authority has decided that a situation provides just cause for action, and war is considered a proportional response when all other measures have failed, one crucial consideration must be made: can the war succeed? For a war to be morally just, according to this final criterion, it must be deemed to have a high probability of bringing about a successful outcome. In the context of a humanitarian intervention this refers not only to military success, but also to a successful solution to the humanitarian situation that the intervention is meant to alleviate. This is the last of Turner Johnson's "prudential" criteria, and has much the same objective as the previous two: to limit the will to resort to force even where this could be seen as legitimate.

Such qualifications have been common throughout the Just War Tradition. I repeat again a quote from Gratian: "he who fails to ward off injury from an associate *if he can do so*, is quite as blameable as he who inflicts it" (Gratian ca.1140 in Reichberg et.al. 2006:115, emphasis added). Consider also once more the well-known quote from Michael Walzer (1977:107, emphasis added): "Humanitarian intervention is justified when it is a response (*with reasonable expectations of success*) to acts 'that shock the moral conscience of mankind.'" In reading Walzer's definition of when humanitarian interventions can be morally just, one can easily overlook this requirement of "reasonable hope of success" in the face of his much-cited term "acts that shock the moral conscience of mankind". But Walzer essentially presents the high probability of success criterion as a threshold criterion for a war to be just.

In general, the criterion of "reasonable hope of success" is one that is easily forgotten in a moral assessment; attention is likely to be paid to the more fundamental issues of right and wrong. But entering into a war (defensive war aside), no matter how just it may otherwise be, with no hope of success can essentially mean throwing lives out the window – hardly justifiable from a moral perspective. In essence, this basically means that it can sometimes be wrong to "do the right thing". This is particularly so in the context of humanitarian intervention: it makes little sense to intervene into a situation when it is unlikely that your intervention will be successful in bringing about a positive humanitarian outcome. Doing so does not correspond well with the proportionality requirement of a war "doing more good than harm"; putting lives at risk with little hope of bringing about a positive change is hard to justify from a moral perspective, no matter how noble or necessary the cause.

A possible objection to this criterion is pointed out by Henrik Syse (2003:115-116): do there not exist some situations where the only moral choice is to fight, regardless of the prospects for success? His example is Churchill's decision to declare war on Nazi-Germany, in spite of the fact that Britain early in the war was practically without allies, and the prospects for success looked extremely bleak. The question can be equally relevant in discussing potential humanitarian interventions: are there not conceivably situations where the humanitarian suffering being witnessed is so gruesome that one has the moral duty to at least *attempt* to intervene, even if victory seems unlikely?

Classical Just War theorists like Augustine would almost certainly say yes, with the theologically grounded conviction that it is more virtuous to take up arms in the defense of others than in defense of one's self. Contemporary thinkers might not be as uniformly affirmative in their response to this difficult question. However, in sum, the reasonable hope of success criterion must be seen as a general rule, to which there perhaps conceivably can be exceptions. It seems fair to conclude, particularly in the context of humanitarian intervention, that it would normally be morally questionable to embark on an intervention in the face of poor prospects for success. Such “gambling” with the potentially destructive instrument of military force is not something that would usually correspond well with the Just War Tradition's general reluctance towards the use of force – or indeed with the underlying justification for the concept of humanitarian intervention itself.

In sum, the underlying purpose of this criterion and the criterion of proportionality is well formulated by Fixdal and Smith (1998:21-22): “[b]oth the criteria of proportionality and reasonable hope become ways of warning against hubris. They direct attention to the size of the task that is being taken on when intervention is initiated. Indeed, these two criteria provide a way to understand the various diagnoses and prognoses related to intervention operations and act as a reminder that authority, cause, and intention are not in themselves a sufficient basis on which to decide on humanitarian intervention. To be right is not enough.”

3.9 Applicability of the presented framework; a cultural footnote

The *ad bellum* criteria presented above will be applied as a theoretical framework in my discussion of the chosen cases. By evaluating the extent to which the two cases satisfy the criteria of just cause, legitimate authority, right intention, last resort, proportionality, and high probability of success, I will be able to make some conclusions regarding the moral status of the interventions. At the same time, the application of the criteria to the data, and a comparison of the results, will allow me to be critical of the criteria themselves, and to gauge the relative importance of each criterion in the criteria-set.

Before proceeding to the analytical chapters, one final topic needs to be briefly touched upon. Earlier in this chapter I made my case for the chosen framework's applicability to the analysis of contemporary cases of humanitarian intervention. However, the specific cases selected means that one more point needs to be discussed regarding the criteria-sets applicability: is Just War thinking as presented above, springing, as it does, from Western, Christian philosophy, really applicable to two cases occurring in a completely different cultural context – that of the Indian subcontinent? On this note, it must be mentioned that the Hindu culture of the Indian Subcontinent can be credited with its own conception of Just War. A brief overview of this conception and how it compares to the Western framework presented above, is thus in order.

The Hindu Just War Tradition, significantly, is not as cohesive as the Western one which I have presented above (Brekke 2006:119).¹⁹ While the Western Tradition has been explicitly developed by a number of philosophers and in a number of identifiable texts devoted to that specific purpose, Hindu Just War thinking must to a greater extent be “extracted from religious texts and court chronicles written by ancient authors” (Roy 2007:233). Upon examination of such texts, it becomes apparent that the Indian tradition of Just War to a greater extent is internally contradictory than is the Western one; according to Kaushik Roy (ibid.), “ancient India developed a bipolar model of righteous and unrighteous war.” These two poles, he continues, may be labeled *dharmayuddha* and *kutayuddha*: just and unjust war, respectively. Of these, the former can arguably be said to be approximating a Western Just War outlook on war, while the latter seemingly rather resembles a Machiavellian, or Clausewitzian²⁰ outlook on the use of force. As Brekke (2006:137) posits, “there is a tension within the Hindu tradition between heroism and prudence, between the tradition that sees war as a royal duty according to *dharma* and the tradition that sees war as a means to the ends of security and prosperity.” These rather conflicting strands of Hindu Just War thinking have to varying degrees alternated in their impact on official Indian thinking on war, also in modern times (Roy 2007:239).

Compared to Western Just War thought, particularly the *kutayuddha* strand of Hindu philosophy on war is in many ways opposed to the views on warfare proposed in the Western Just War Tradition. However, in many ways, the *dharmayuddha* aspect of the Hindu tradition can, as indicated, be compared to Western Just War thinking. Although the Hindu tradition does not deal as explicitly with the *ad bellum* aspect of warfare, one may find indications in Hindu literature of attitudes to the Western *ad bellum* criteria presented above that coincide with the conceptions of

¹⁹ It must be stressed, of course, that the Western Just War Tradition cannot be seen as a single, cohesive unit either. That being said, it is nonetheless far more unified, and its main propositions more readily identifiable than is the case in the Hindu tradition.

²⁰ I am referring, of course, to the famous maxim that “war is merely the continuation of policy by other means” (Clausewitz 1832 in Reichberg et.al. 2006:556).

these criteria in the Western tradition, for example regarding the importance of right intentions by a warring party and the “misbehavior of an opponent” being regarded as a just cause for war (Brekke 2006:136-137). Roy (2007:238) also points out that the idea that “war should be resorted to as a final option” is evident in some strands of Hindu Just War philosophy. Thus, in sum, while the Hindu tradition of Just War thinking is somewhat diffuse and contradictory, several elements of Hindu Just War thought can be seen as highly compatible with Western Just War thought as presented in this chapter.

Space does not allow a closer inspection of this important and highly interesting topic. For now, suffice it to say that there exists several parallels between some elements of the Hindu Just War tradition and the Western one. At the very least, this brief examination, in my mind, does not indicate any fundamental objection to the application of the Western Just War criteria to the Indian cultural context.

The analytical framework in place, and its applicability justified, we may now proceed to assess the first of the chosen cases: the Indian intervention in East Pakistan in 1971.

4. India in East Pakistan, 1971: A “classical example” of humanitarian intervention?

India's intervention in what was then East Pakistan in December 1971 has since by many been cited as one of the best examples of a legitimate unilateral humanitarian intervention. With little support, and indeed with quite fervent condemnation from much of the outside world, India intervened to end what has been classified as one of the worst cases of genocide in the post-World War II period and reverse what was becoming a highly unsustainable refugee-flow over the border to India. The military action claimed surprisingly few battle deaths, was over in two weeks, and led to the unconditional surrender of the West Pakistani troops in what had now become the independent country of Bangladesh. Refugees returned home, POWs were eventually restored to West Pakistan, and power was transferred to the victors of the pre-war elections in East Pakistan – the Awami League party and its leader Sheikh Mujibur Rahman. Just over three months later, India's troops had pulled out of the country. It is not hard to see why people would call this a successful and morally just intervention.

On the other hand, it could be pointed out that the intervention culminated in a full-scale invasion of a sovereign country that resulted in that country's permanent dismemberment – normally not something that would be considered justifiable in international relations. It is also possible to question India's motives in deciding to intervene; the intervention did serve to humiliate and severely subdue India's main enemy, with enormous strategic gain to India. Could it be said that the humanitarian situation was simply a convenient excuse to pursue war against a weakened enemy, with the purpose of splitting the enemy state in two? And, importantly: should this affect our view on the intervention's moral legitimacy? Furthermore, the lack of international support in the form of a UN mandate would according to some people render the action illegal and thus not morally just. Indeed, at the time, the UN was more busy condemning India's invasion than condoning it, and few countries, as mentioned, lent India even moral support. Condoning unilateral, unlicensed interventions – particularly all-out invasions with such drastic results – could open the way for a highly unstable international system. Some might argue, therefore, that such interventions should not be regarded as morally just. With this in mind, the morality of the Indian intervention in support of Bengali secession deserves a thorough examination.

A basic familiarity with the history of Pakistan is necessary in order to have a proper understanding of the events of 1971. Furthermore, the run-up to and fallout of the 1970 elections in Pakistan is essential knowledge in an analysis of the causes for the Indian intervention. Therefore,

the first sections of this chapter will concern themselves with such background, before the intervention itself is dealt with in adequate detail. I will then analyze the data using the presented theoretical framework.

4.1 Background: The creation of Pakistan and the build-up to Bengali secessionism

4.1.1 The partition of British India

In 1947, British colonial rule over India ended. What had previously been British India was by 15 August 1947 the two separate states of Pakistan and India, the former divided into two geographically separate wings, West Pakistan and East Bengal or East Pakistan, separated by nearly 2000 kilometers of Indian territory. The separation of India into the two states of India and Pakistan was the end result of the “Two-Nation Theory” promoted by the Muslim League, the main Muslim party in the Indian independence movement, led by the first leader of Pakistan, Mohammed Ali Jinnah. This theory basically posited that Hinduism and Islam represented two ways of life so fundamentally different that the area that was British India did not consist of one nation, but rather of two: the Hindu nation and the Muslim nation. Accordingly, these two nations should not be forced to coexist.²¹

Although opposed by “Mahatma” Gandhi and much of the Indian National Congress, the party which was the main driving force behind Indian independence, there was notable support for partition particularly in the Muslim majority areas in eastern Bengal, later to become East Pakistan and Bangladesh (Ganguly 1998:98). Ultimately, then, the Muslim League, in large part due to support from Bengali Muslims, was able to garner enough support to enable the creation of the sovereign and united state of Pakistan, which formally declared independence the day before India, on 14 August 1947. The new Islamic state consisted of the Muslim majority areas in Western India that contained a variety of ethnic groups – Punjabis, Pathans, Baluchis and Sindhis – and the Muslim majority areas in the East of what had previously been the United Province of Bengal, which were more populous than the combined areas of the western wing and consisted mainly of ethnic Bengalis. Already from the outset, it was clear that this was a somewhat awkward union. Simply put, “barring religion, the people of the two wings had very little in common” (ibid.:99).

Crucially for the future of Pakistan, political power in the new state was quickly consolidated in the hands of the group that had previously formed the core of the Muslim League. This group consisted to a large extent of upper-class Urdu-speakers, and power soon gravitated to the faction of the ruling elite that originated from the West Pakistani province of Punjab (Ayoob &

²¹ The party had set the partition of India along religious lines as their main goal in the “Lahore Resolution” in 1940. This resolution was later to be disputed, as Bengali nationalists claimed that the proclamation had originally called for independent Muslim *states*, rather than one unified Muslim state.

Subrahmanyam 1972:8-11). Despite having a reasonable degree of popular support prior to partition, the Muslim League had never had much of a grassroots organization (ibid.:11-12). As such, the leadership of the new state of Pakistan emerged from a party that had traditionally been elitist in nature, and that, particularly following partition, had a weak popular base. The movement had long been dominated by the charismatic “Quaid-i-Azam” (“Great Leader”), Jinnah. When he died in 1948, his successors “did not hesitate to emulate his autocratic manner” (Mascarenhas 1971b:29). Emerging from the political culture of the Muslim League, then, Pakistani politics were from the outset autocratic in nature. And as a result of the concentration of political authority, the West, and Punjab in particular, became the dominant region in Pakistan from the start.

4.1.2 Political, economic, and cultural dominance; roots of the Bengali freedom movement

Retrospectively, it seems fair to conclude that a country so geographically and culturally split from the very outset should face grave difficulties in maintaining a sustainable political balance. As noted in a *Time Magazine* article in 1971, “[e]ven in less troubled times, Pakistanis were prone to observe that the only bonds between the diverse and distant wings of their Moslem nation were the Islamic faith and Pakistan International Airlines” (Time 1971d). In Pakistan's case the problem of diversity was compounded by the regional exclusiveness and social composition of the group that found itself at the helm of the state after 1947. Political power was already at Pakistan's conception concentrated in the Western section of the country. Once this imbalanced structure was in place, the wealthy Punjabi elite had very few incentives to let the Bengalis in on a share of the power. Instead, the elite was presented with a built-in incentive for domination.

This incentive for domination asserted itself quickly, the Punjabi elite consolidating a West Pakistani domination over the East that in addition to the political aspect soon assumed military, cultural, and not least economic dimensions. A closer description of the discriminatory structure of Pakistani society would be highly interesting, as it represents a crucial underlying explanation for subsequent developments of interest to this thesis. For reasons of space, however, this topic may at present only be superficially dealt with.²²

For now, suffice it to say that East Pakistani influence on the politics and administration of the country, despite a constitutional formula of representational “parity” between the two wings with regards to both political and administrative representation,²³ remained minimal in real terms

²² More explicit description and more thorough documentation of the West Pakistani dominance in the united Pakistan, may be sought in some of the sources cited in the text, for example Mascarenhas (1971b), Ayoob & Subrahmanyam (1972), or, for a Pakistani perspective, Bhutto (1971).

²³ A formula that even if it had been adhered could be viewed as unfairly denying the East Pakistanis the rightful advantages inherent in their numerical superiority.

throughout the duration of the existence of unified Pakistan. The Punjabi elite maintained its hold on power, increasingly backed by the military establishment, dominated in large part by members of the same social and regional origin (Ayooob & Subrahmanyam 1972:37-38). This Punjabi-dominated “military-bureaucratic clique” formalized its grip on power in the military coup of Ayub Khan in 1958, further marginalizing Bengali participation in all meaningful decision-making forums. In addition to (and largely as an effect of) this political subservience, East Pakistan became locked in a pattern of economic exploitation at the hands of the West. West Pakistanis assumed positions at the top of the East Pakistani economic structure, replacing Hindus who had dominated the Bengali economic life prior to partition (Ganguly 1998:103). Profits from the relatively resource-rich East were channeled into the West, and manufactured products from the West channeled into the Eastern market at inflated prices, in what in many ways resembled a classical imperial economy (Ayooob & Subrahmanyam 1972:43).

To complete the resemblance to imperialism was the pervasive feeling in the Western wing of the country “of cultural-cum-religious superiority over the other wing's population,” a feeling that “almost touched the boundaries of racialism”(ibid.: 2). This cultural arrogance was largely a result of the cultural, historical, and lingual affinity between Muslim Bengalis and their erstwhile Hindu co-nationals. West Pakistani society, especially at the elite level, was permeated with a feeling that the Bengalis were somehow “corrupted” by this “Hindu influence”, and that this made the West Pakistanis “better Muslims” than the Bengalis (Mascarenhas 1971b:17). The West-Pakistani perception of cultural superiority would clearly shine through the government's statements and policies, most obviously in the language issue. Shortly after independence, the leadership of Pakistan declared Urdu the country's sole national language, a move highly insulting to the Bengalis who have their own language of Bengali, and few of whom spoke Urdu. The language issue, subsequently, was to provide “the first spark to Bengali nationalism” (Ganguly 1998:101-102). The central government's refusal to recognize Bengali as an official language was unacceptable to the Bengali people, who were proud of their cultural and literary heritage. Increasing agitation eventually culminated in massive demonstrations on 21 February 1952 in East Pakistan, prompting police to open fire on a large mass of demonstrators, killing and injuring an undetermined number. Eventually, as a result of this agitation, Bengali was accorded equal status as Urdu, but the language movement and 21 February 1952 – still commemorated annually in Bangladesh as “Language Martyr's Day” – is often seen as the start of the Bengali freedom movement.

The Bengali freedom movement that eventually emerged, then, had basis in legitimate grievances on several fronts. Nonetheless, this freedom movement long maintained the form of a movement for greater regional autonomy rather than for independence. Increasingly, the movement

came to be dominated by the Awami League, a political party based in East Pakistan that was eventually to be led by the charismatic Sheikh Mujibur Rahman, a Bengali activist who had earlier been a fervent advocate for the Muslim League's Two Nation Theory and the creation of Pakistan. In 1966, Mujib and the Awami League put forward the so-called "Six Point Program" as the platform for their party. The program called for a high degree of political and economic autonomy in the framework of a democratic, federal Pakistan, in which the central government had only limited powers. The Six Point Program was later to assume an almost canonical status in the Bengali movement – a movement that was to rapidly gain pace following the rise to executive power in 1969 of General Yahya Khan.

4.1.3 Build-up to Civil War: the reign of Yahya Khan and the 1970 elections²⁴

Following a large popular uprising against Ayub Khan, a new general stepped into the role of leader of Pakistan on 25 March 1969: General Yahya Khan – who would subsequently refer to himself as "Commander-in-Chief, Chief Martial Law Administrator, and President" (Ayooob & Subrahmanyam 1972:92). In the tradition of military dictators worldwide, Yahya's ascent to power was coupled with fervent assertions of his intentions to "restore order and democracy". Promising to end a decade of military dictatorship, Yahya was initially heralded as a hero in Pakistan. In November 1969 he announced that general elections would be held near the end of the following year, the victors of which would form a Constituent Assembly which would develop a new, democratic constitution. In addition to this, in what would later prove to be of vital importance, he announced that the previously applied principle of parity would be replaced with the principle of "one man one vote", opening for the possibility of an East Pakistani majority in the mentioned Assembly. This move may have been motivated just as much by a need to win over East Pakistani sentiment as by any genuine concerns for democracy. A reasonable assessment, in light of later developments, is that Yahya assumed that no clear majority would be achieved by any one party, and that he following the elections would be able to "fiddle a constitution through an assembly deadlocked by discord" (Mascarenhas 1971b:44). Nonetheless, the removal of the parity formula would prove to have grave consequences for this plan.

The focal point of the Awami League's election campaign was the mentioned Six Point Program, which was "given the sanctity of a *Magna Carta*", the Awami League strategy being to turn the elections into "a referendum on Bengali nationalism" (ibid.:53). It seems clear in hindsight that the central authorities underestimated the degree of alienation that the East Bengali people felt

²⁴ A full account of the build-up to and aftermath of the elections is given in *The Rape of Bangla Desh* by Anthony Mascarenhas (1971b), a Pakistani journalist who, after revealing the 1971 killings in East Pakistan in the Western press renounced his Pakistani citizenship.

following more than two decades of repression and exploitation. Indeed, all other parties “suffered almost collective extinction as far as East Bengal was concerned”, due to their link in the popular mind with the regime in the West, a development that Yahya Khan seemed to underestimate (Ayoob & Subrahmanyam 1972:87). The Awami League was thus set to do well in the polls.

Another pivotal event, however, decisively tilted the outcome of the East Pakistani elections in favor of the Awami League. On November 12, a cyclone and an ensuing tidal wave swept over East Pakistan, in one of the worst natural disasters in recorded history. It is generally estimated that the disaster might have claimed as many as 500,000 Bengali lives. In the face of this unprecedented disaster, the central Pakistani government acted in a way indicative of its general disregard for the East Pakistani people; in addition to reacting slowly and inadequately, even expressions of sympathy for the cyclone's victims were scarce. As Mascarenhas (1971b:55-56) describes, “[t]he spectacle of aid pouring in from all parts of the world with hardly a word of sympathy from West Pakistan – it was then occupied with a sex and suicide scandal involving a senior official and a social beauty – gave a new dimension to Bengali resentment.” This resentment would be clearly conveyed in the polls.

Even in light of the described developments, the Awami League's success in the elections on 7 December exceeded everyone's expectations; sweeping the East Pakistani polls, the Awami League won a total of 169 out of a total of 313 seats, leaving the party with an independent majority in the new Constituent Assembly. The results clearly indicated Bengali support for the demands of the Six Point Program, and seemed to leave no doubt about the fact that Mujibur Rahman should become the country's new Prime Minister. However, the prospect of power gravitating into the hands of an East Pakistani leader seemingly “threatened to undermine all the fundamental assumptions of the system that had provided succour and support to the power structure in Pakistan” (Ayoob & Subrahmanyam 1972:92). Yahya Khan had earlier indicated his intention of holding on to power by giving himself a veto over any constitution and the power to dissolve any elected assembly in a “Legal Framework Order” decreed in March 1970 (ibid.:84). He was never likely to relinquish power to a Bengali leader intent on achieving provincial autonomy and robbing the central state of much of its authority.

What followed, thus, was a three-month period of political maneuvering by Yahya,²⁵ which culminated in an announcement on 1 March 1971 that the meeting of the Constituent Assembly was postponed indefinitely. The blame was placed on Sheikh Mujibur Rahman, who was accused of

²⁵ For reasons of space, the political developments in this vital period cannot be described in detail. However, for a highly interesting and detailed account, see pp. 60-128 in Mascarenhas (1971b). An opposing account, written by a central West Pakistani player in the political game, can be found in *The Great Tragedy*, by Zulfikar Ali Bhutto (1971).

trying to divide the country. The postponement of the Constituent Assembly's meeting sparked a massive popular reaction in East Pakistan. Mujibur Rahman, on the 3rd of March, launched an extensive campaign of non-violent non-cooperation. This campaign was almost universally adhered to, and soon became all-encompassing to the extent that all effective government functions, including tax-collection, were being provided by Awami League cadres rather than by the Western-dominated government. Meanwhile, however, Yahya Khan was covertly building up the West Pakistani military presence in East Pakistan, bringing in an estimated 12,000 troops in civilian dress on commercial flights of Pakistan International Airlines, in addition to sending troops and equipment on naval vessels (Mascarenhas 1971b:87). Yahya's game-playing continued, as he set a new date for the meeting of the Constituent Assembly and engaged Mujibur in negotiations regarding the future constitution. However, it would soon become clear that this was only a ploy to buy time for the brutal military crackdown that was soon to come.

4.1.4 Genocide, Refugees, and Civil War

The landmark date in the Bengali freedom movement is 25 March 1971. Close to midnight on the 25th, the West Pakistani military turned on the population of East Pakistan in what was quite clearly a well-planned act – one which, in the words of Mascarenhas (1971b:116), “matches exactly the dictionary definition of genocide”.²⁶ The genocide label, though a controversial one in and of itself, can be argued to be highly reasonable in this case; it is, at any rate, applied by many who have examined the actions in hindsight, for example R.J. Rummel in his *Statistics of Democide: Genocide and Mass Murder Since 1900* (1997). The main victims of the action were students, professors and other intellectuals, members of the Awami League, Bengali army and police regiments, and the large Hindu minority living in East Pakistan. In many cases, the Pakistani soldiers carried lists of victims, indicating the degree of planning that had preceded the action. In other cases, soldiers set fire to entire city blocks, gunning down fleeing citizens (Time 1971b). To cite Rummel's (1997) summary of the action:

In 1971 the self-appointed President of Pakistan and Commander-in-Chief of the Army, General Agha Mohammed Yahya Khan and his top generals prepared a careful and systematic military, economic, and political operation in East Pakistan (now Bangladesh). They also planned to murder its Bengali intellectual, cultural, and political elite. They also planned to indiscriminately murder hundreds of thousands of its Hindus and drive the rest into India. And they planned to destroy its economic base to insure that it would be subordinate to West Pakistan for at least a generation to come. This despicable and cutthroat plan was outright genocide.

²⁶ In the UN “Convention on the Prevention and Punishment of the Crime of Genocide” (1948), genocide is defined as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group.”

As the military crackdown started on 25 March, Sheikh Mujibur Rahman was arrested and taken to West Pakistan, not to be seen again for months. He would subsequently be blamed for the violence and charged with treason. The crackdown continued with full force for weeks, spreading throughout the country. The scale of the killing is hard to determine exactly. Less than a month later, international reports were already indicating that more than 200,000 civilians had been killed by the army in the first wave of violence (Time: 1971e). While the central authorities quickly claimed that the situation was back to normal, the killing of unarmed citizens, particularly Hindus, continued right up until the surrender of Pakistani troops to the invading Indian Army on December 16. Bangladeshi authorities have since estimated that the Pakistani army claimed the lives of 3 million Bengalis between 25 March to 13 December, a figure that would make this a killing-spree almost unprecedented in its intensity (Ayooob & Subrahmanyam 1972:166). Rummel, in the work cited above – largely occupied with determining reasonable estimates of casualties in cases of state-sponsored mass murder – sets 1 ½ million as a reasonable estimate (Rummel 1997). He also cites Yahya Khan admitting that his army had killed 50,000 people – a startling admission by any country's leader, albeit a figure that coincides with other estimates of the death-toll in Dacca²⁷ alone during the first two days of the action (ibid.).

Ample testament to the atrocities being committed was provided by the refugee-flow that started on 25 March and continued practically unabated until December. The sheer number of refugees speaks for itself; approximately three weeks after the crackdown there were an estimated 120,000 refugees in India; a week later, over 500,000; two months after the crackdown, almost 3,5 million (Ayooob & Subrahmanyam: 169-170). In August, refugees were still arriving at an estimated rate of 50,000 per day (Time 1971d), and in October, a massive 30,000 refugees were still thought to be crossing the border daily (Time 1971c). Indira Gandhi captured the shocking extent of the exodus in a press conference in October, with her claim that “13 per cent of the population of Bangla Desh is now on Indian soil” (Gandhi 1972:45). By December, the total number of East Pakistani refugees in India is generally estimated to have been around 10 million. Needless to say, this vast influx of refugees into already poor and overcrowded parts of India quickly became a massive economic burden to Indian authorities, not to mention an unprecedented logistical challenge. It was to a great extent this refugee-flow that was to ensure Indian involvement in the conflict – an involvement that would be crucial to the conflict's outcome. In spite of a press blackout in East Pakistan, accounts of the crackdown eventually began to appear in the Western

²⁷ The correct spelling of the capitol of Bangladesh is now Dhaka, but I have maintained the old spelling as this was the correct spelling of the city at the time.

press, largely based on eye-witness accounts recounted by the ever-increasing mass of refugees. The eye-witnesses told stories of unimaginably callous acts of torture, murder, and rape committed by Pakistani soldiers, often completely random in their targeting, but on the whole particularly victimizing the Bengali Hindus²⁸.

25 March was not only the start of genocide and a massive exodus of refugees. It was also the start of a civil war. From 25 March onwards, the Pakistani army in East Pakistan could by no measure be said to be representing the people of East Pakistan; “the alienation between the Pakistan Army and the local population was total and complete. For all practical purposes, it was an army of occupation” (Ayoob & Subrahmanyam 1972:139). When the Pakistani army turned on them on 25 March, Bengali police and army units generally managed to offer only meek resistance. While the majority was wiped out – particularly those in Dacca, who had the least warning of the impending action – some managed to escape, mostly fleeing to India. Others received word of the ongoing crackdown in time to revolt and initially maintained control over some important cities and towns. These elements joined forces to form the *Mukti Bahini*, or “Freedom Force”, under the leadership of a retired Bengali army officer. The Mukti Bahini quickly gained new recruits, mostly amongst the many refugees, and became increasingly well organized. It eventually would grow into a guerrilla army probably numbering around 100,000 (Marwah 1979:568).

However determined its adherents, the Mukti Bahini struggled against the superior Pakistani army who quickly gained and maintained control of most of the major cities, and generally continued to operate and kill at will. The Mukti Bahini, although its advances were initially overestimated, particularly in the Indian press (Kumar 1975:490), was at best able to control some countryside areas and small towns, and increasingly settled into a pattern of classical guerrilla warfare. Despite increasingly audacious acts of insurgency, “by September, it had become quite clear that the Mukti Bahini was no match for the professional Pakistani army” (Ganguly 1998:124). The Mukti Bahini might well have been consigned to a long-term, low-intensity guerrilla struggle with an uncertain outcome, characteristic of many secessionist movements around the world – had it not been for the intervention of India, which I will now move on to describe and assess.

4.2 Indian involvement and military intervention

4.2.1 The initial Indian response

The fact that there were so many Hindu refugees, the cultural affinity between Indian Bengalis and East Pakistani Bengalis, and the rivalry with Pakistan (politically associated, as has

²⁸ See, for example, the 13 June 1971 article in the *Sunday Times* by Anthony Mascarenhas (1971a), “Genocide”, one of the first comprehensive reports in the Western media based on eye-witness accounts of what was going on in East Pakistan.

been made clear, with *West* Pakistan) are all factors that on their own would lead one to predict that India would choose to side with East Pakistan following 25 March 1971, even had the testimony of the refugees not been as gruesome as it was. Furthermore, Sheikh Mujibur Rahman and the Awami League had long advocated better relations with India, and thus the Awami Leaguers now fleeing over the border to India had already had a relatively friendly relationship with the Indians. Unsurprisingly, therefore, a declaration of solidarity for the people of East Pakistan came less than a week after the military crackdown from a unanimous resolution in the Indian Parliament on 31 March, which assured the East Pakistanis that they could expect the “wholehearted sympathy and support of the people of India” (Gandhi 1972:14). Although in principle promising no more than moral support, this declaration was an important early indication of India’s forthcoming policy on the conflict. Indeed, it could be said that even at this early stage, that “behind the Indian Prime Minister's decision to throw open the borders to the refugees there was an implicit commitment to bring about Bangla Desh²⁹” (Ayoob & Subrahmanyam 1972:184).

The early Indian support for the East Pakistanis was apparent among other ways in India’s assistance to the fledgling Bangladesh government in exile, formed on 1 April by Awami League leaders who had fled the army crackdown. This government (with Mujibur Rahman declared President in absentia) was helped by India to set up two diplomatic missions, one in Delhi and one in Calcutta, and formally proclaimed Bangladeshi independence on 10 April (Ganguly 1998:120). Support for the government-in-exile does not necessarily imply, however, that India initially envisioned an independent Bangladesh. They certainly did not formally endorse such a line before late in the game, officially recognizing Bangladesh only after war had been formally declared on Pakistan in December. The Indian line long remained that the parties should seek a political solution to the crisis that would allow the refugees to return home. However, one reasonable assessment is that part of the purpose of India’s support for the Bangladesh government was to help it “appear to be a better alternative in the eyes of the international community for the people of East Pakistan”, a strategy that indicates that India already at that very early stage had envisioned Bengali independence (ibid.:121).

As the refugee-flow steadily increased, and the scale of the challenge facing both the Bengali people and India herself became apparent, India's policy evolved. Their ensuing approach to the issue would have both a diplomatic and a military aspect. The evolution of the diplomatic approach will here be dealt with first, the military aspect in the subsequent section. Finally, a

²⁹ The name “Bangla Desh” emerged over the course of 1971, “Bangla” basically meaning “Bengali” and “Desh” meaning country. This was the formal name of the new state that emerged by December, but the name was soon changed to “Bangladesh.” In this thesis I will use the merged version of the name, while not changing direct quotes which use the split version.

section will deal with the international response to the East Pakistan issue, a factor that will be an important variable in the ensuing moral assessment.

4.2.2 Evolution of the political approach

The Indian approach vis-à-vis the international community throughout the 1971 crisis would revolve around trying to press for a sustainable political settlement in East Pakistan, attempting to gain support for taking care of the refugees, and rallying for sympathy for the plight of the Bengali people in general. Simultaneously, as the refugee-situation became more pressing, the Indian policy vis-à-vis Pakistan would steadily become more aggressive. Already in June, the Indian government began referring to the refugee situation as “demographic aggression”, implying that this situation was brought about intentionally by West Pakistan, and implying also that India had a right to respond to this aggression. The government would as mentioned initially formulate a concrete policy that called for a political solution to the East Pakistan conflict that would halt the refugee-flow and allow the existing refugees to return home, simultaneously stressing that caring for the refugees was the responsibility of the entire international community, not just of India (Marwah 1979:560). To win support for this line, the Indian Foreign Minister embarked on a visit to 6 foreign countries in June, traveling to the Soviet Union, West Germany, France, Canada, the USA, and Great Britain.

Continued hostility on the part of Pakistan (coupled with larger strategic developments on the global scale which will be more closely described under section 4.2.4) led to a further evolution of the official Indian policy in the following months of July and August, as still more refugees were continuously fleeing to India. At the end of June, Yahya had decreed that the new Pakistani constitution would be formulated by a panel of experts, rather than by the assembly elected the previous year, and July would feature several heated interviews with Yahya Khan in the Western press. On 19 July he warned India that war was certain should they attempt to seize any part of East Pakistan, and the following day Yahya announced that Mujibur Rahman would be tried for treason, an offense punishable by death (Kumar 1975:493). This unconciliatory stance served to toughen the Indian line. Indira Gandhi had already in mid-June asserted that India would not accept a political solution that meant “the death of Bangla Desh”, and that she felt that the prospects for a political settlement were becoming more remote “with each passing day” (Gandhi 1972:26-27). It seemed, then, that although India still formally pushed for a political solution, there was a growing sense that such a solution might be very hard to come by.

Analyzing these political developments, it would seem, “in hindsight, that some time during this period Indian strategic evaluations must have conceived the possibility of a resort to military

intervention for solving the subcontinental impasse” (Marwah 1979:563). Importantly, however, at this time “Indian preparations for possible military intervention were not seen as displacing the earlier search for a political solution but as increasing the range of options in Indian hands” (ibid.). A more aggressive formulation of the Indian stand to the conflict was presented by the Indian foreign minister on 20 July, in which he among other things officially admitted that India was “doing everything possible” to support the Mukti Bahini, and categorically asserted that India was ready to defend itself if need be (Kumar 1975:494).

Towards the end of September Indira Gandhi visited Moscow, in what has been termed “a crucial visit in the evolution of Indian policy to the East Bengal question” (Kumar 1975:496). The visit, while not resulting in any radical re-orientation of the Indian policy – they were still at least publicly committed to finding a political solution to the problem – seemed to signal a shift of opinion in India. The Soviet Union assured India of their support, and Indira Gandhi asserted that India was “fully determined to take all necessary measures to stop the inflow of refugees and to ensure their return”, conveying a feeling that direct military confrontation with Pakistan seemed an increasingly realistic possibility (Ayoob & Subrahmanyam 1972:201). Gandhi furthermore clearly indicated her disappointment at the response of foreign governments. The Indian tone was growing increasingly bitter, matched by steadily toughening rhetoric from Yahya Khan who showed little intent of backing down.

In the period October-November, Gandhi visited a further 6 western capitals in order to vie for support for the East Pakistani cause and the Indian demands of a political solution and the return of the refugees. In Washington in mid-November, Gandhi commented that she was “sitting on top of a volcano,” and that she honestly did not know whether or not it was going to erupt (Time 1971f). It would erupt only approximately three weeks later, the end result of the increasingly antagonistic political atmosphere and the escalating military confrontation that had been building since March between the Pakistani army on the one hand and the Indian Army and the Mukti Bahini on the other.

4.2.3 Support for the Mukti Bahini and military escalation

Both reinforcing and reinforced by the deteriorating diplomatic situation was a steadily increasing Indian military involvement in the East Pakistani civil war. The military aspect of Indian support for East Pakistan probably began quite soon after 25 March, and initially took the form of covert support for the Mukti Bahini. In addition to allowing the Mukti Bahini to take refuge and regroup in India, the Indian government increasingly started providing “military and technical advice, training in guerilla warfare, weapons, funds, and even perhaps some limited artillery cover

especially during its raids close to the Indo-Pak border” (Ganguly 1998:124). Later, reports came in of Indian special forces operating alongside the Mukti Bahini and participating directly in combat activities inside East Pakistan (Marwah 1979:564). Indian support for the Mukti Bahini was generally an open secret, and would soon increasingly be admitted openly. Already as early as July, the Indian government as mentioned admitted that they were “doing everything possible to lend support to the freedom fighters” (Kumar 1975:494). Such an overt admission of support would indicate that the government by then had already been supporting the guerrilla army in a substantial way for some time.

Following the increasingly aggressive and war-laden Pakistani rhetoric and the other political developments in the period around August and September, India escalated its military support of the Mukti Bahini. Indian officers eventually provided training for an estimated total of around 40-50,000 Mukti Bahini troops in Indian camps (Marwah 1979:564). The subsequent expansion of the Mukti Bahini allowed them to step up their campaign during the fall of 1971, the military aspect of the civil war thus escalating as Indian involvement deepened. In addition to providing training to the “liberation force,” increased Indian troop deployments along the East Pakistani border forced the Pakistani army to concentrate its forces in the border areas, allowing the Mukti Bahini to operate more freely in the interior of East Pakistan (Ayoob & Subrahmanyam 1972:207).

Increased Mukti Bahini action and the fact that the freedom fighters often operated out of Indian bases, coupled with the increased number of Indian forces posted along the East Pakistan border inevitably led to more frequent border skirmishes between India and Pakistan. These clashes would steadily grow more serious in character. On 22 November, Indian jets shot down three Pakistani jets who had intruded into Indian airspace, leading Yahya to declare a state of emergency in Pakistan and call up the army reservists, on the basis that they had been “threatened by aggression” (Kumar 1975:497). On 24 November, Indira Gandhi told her parliament that 13 Pakistani tanks had been destroyed the previous day, when Indian forces crossed the East Pakistani border in response to Pakistani shelling of Indian territory during an offensive against the Mukti Bahini (ibid.). The extent to which India was willing and able to support the Mukti Bahini was thus becoming increasingly clear. The Indian support had already at this stage assumed proportions that could arguably be regarded as intervention, going by the definition of intervention as “coercive interference in the internal affairs of a state” (as will be further discussed below) (Welsh 2004:3). However, no one can deny the label of intervention on the events that were to follow a few weeks later, when the situation escalated into all-out war between Pakistan and India.

On 3 December, 1971, the Pakistani Air Force launched air-strikes on Indian airfields near the border with West Pakistan. Although there is some argument regarding who attacked first – Yahya claiming the air-strikes were responses to Indian aggression – it seems clear that the Pakistani air-strikes were intended to weaken Indian air-power in preemption of an Indian attack rather than as a response to one. Nonetheless, India responded on 4 December with a full-scale invasion of East Pakistan. The Indian Air Force soon achieved near total air dominance in East Pakistan, and on the ground outnumbered the Pakistani army two to one. In a matter of 13 days, the Indian forces, in coalition with the Mukti Bahini, had overrun the West Pakistani forces in East Pakistan and forced their surrender. India and Pakistan also clashed on their mutual western border and in the disputed territory of Kashmir. However, the hostilities on the western front were limited, India capturing small pockets of Pakistani territory but not pushing forward to attempt to procure any substantial territorial gains.

Power in the conquered territory of East Pakistan was directly after victory handed over to the “Government of Bangla Desh,” which had been formally recognized by India on 6 December. Following the Pakistani surrender, the Indian troops stayed on in Bangladesh only until 25 March 1972 – exactly one year after the military crackdown that had set the crisis in motion. The results of the Indian intervention were the creation of a new, independent state, and the permanent division of Pakistan. The determination and extent of the Mukti Bahini notwithstanding, few dispute that the Indian involvement was crucial in ensuring this outcome.

4.2.4 The role of the international community and the UN

Before proceeding with the assessment, some notes are in order regarding the international response to the crisis. The international community as a whole certainly did both India and East Pakistan few favors during the course of 1971; India, in many ways, was left on its own in defending the Bengalis. Summing up the international view:

The consensus among both important and minor actors of the international community was to favor a solution that maintained the existing integrity of the state of Pakistan. The killings and the refugees were unfortunate, but needed to be separated from the larger political objective of maintaining Pakistan’s unity. The problem could be handled by humanitarian recompense to India and pragmatic but unpublicized approaches to the military regime in Pakistan. (Marwah 1979:561)

At best, then, India received aid aimed at supporting the refugees. Approaching what Indira Gandhi often referred to as the “root causes” of the problem, however, was seen as an unacceptable interference in the internal affairs of Pakistan by the majority of the world's states in 1971. The preferred response by the international community was to attempt to uphold the status quo. As a

result, India, as rhetoric grew tougher and support for the Mukti Bahini more open, was chastised by many for attempting to intervene unjustly in Pakistan's internal affairs.

Pakistani politicians, unsurprisingly, were fervent in advocating the principle of non-intervention vis-à-vis the international community in the crucial months of 1971. Consider the following symptomatic assessment of the situation by Zulfikar Ali Bhutto (1971:52-53), a central player in the political developments:

In so self-evident a matter, with a nation struggling for its own survival, world opinion should have been unambiguously on the side of Pakistan. Here was a country doing its fundamental duty to preserve its national integrity.... There was no question of taking a position in favour of Pakistan and against another country.... Thus there should have been no reluctance for the foreign powers to reaffirm the well-established principle of international law calling upon States not to interfere in each other's internal affairs.

The perspective on the situation posited by Pakistani actors, unsurprisingly, drew heavily on the principles of sovereignty and non-intervention. It may perhaps also be seen as unsurprising that this perspective proved easier to accept for the international community than the Indian one.

When analyzing the international response to the crisis, of course, it is vital to keep in mind that the conflict in question occurred in the context of the Cold War. A crucial element in the political game leading up to the invasion was thus, unavoidably, superpower politics. As such, it is highly significant that the United States had traditionally been a strong ally of Pakistan, as was China by 1971 – China having incidentally fought a war with India over some contested borders only a few years earlier. India, although formally “non-aligned,” had enjoyed increasingly friendly relations with the Soviet Union. This constellation would become a vital part of the political developments in 1971. The United States, even in the face of substantial criticism, maintained its line of support for Yahya Khan, even covertly sending shipments of arms to the Pakistani regime after having formally frozen military support, in a move that sparked considerable controversy (Ayoob & Subrahmanyam 1972:186). China also sided with Pakistan, chastising India for “intervening in the internal affairs of Pakistan” and threatening to come to Pakistan's aid in the event of an Indo-Pakistani conflict. Indeed, China was one of the most adamant critics of India in 1971, particularly at the UN, where mainland China had recently been admitted. Their line, consistently, was that “[t]he question of East Pakistan is purely the internal affair of Pakistan. No one has the right to interfere in it” (Singh et.al. 1972: 435).

Largely as a result of these developments, India looked towards the Soviet Union, and on 9 August 1971 signed the “Indo-Soviet Treaty of Peace and Friendship”. Although the treaty did not explicitly require the two countries to come to each other's support in the event of a war, it did

effectively balance the strategic scales, giving India a greater amount of freedom of action. As such the treaty is seen as a highly important move in the run-up to the Indian invasion.

Barring the Soviet Union (and as a result much of the rest of the Communist world), however, India received little international support for their cause. At the United Nations, the Security Council was deadlocked by superpower rivalry, with the United States and China both faithfully supporting the cause of their mutual ally, Yahya Khan, in the US case even in the face of widespread popular criticism as the brutality of Yahya's actions became increasingly clear. In addition to being practically impotent in the face of superpower discord, the United Nations in its deliberations regarding the East Pakistan crisis seemed more concerned throughout with returning to a status quo than with resolving the issue in a way that dealt effectively with the crisis's underlying causes:

While India considered the military repression in East Bengal as the root cause of tension and tried to focus attention on that issue, the Secretary General viewed the border incidents – the *Mukti Bahini* activities – as the principle issue likely to escalate to war ignoring the events leading to the formation of *Mukti Bahini* and the freedom struggle within Bangla Desh. This divergence in approach between India and the international community was to characterise their respective approaches to the problem till it was resolved with the surrender of Pakistani forces in Dacca on December 16, 1971. (Ayoob & Subrahmanyam 1972:192)

As tensions gradually escalated over the course of 1971, the UN proposed to send observers to both sides of the border between India and East Pakistan, to halt cross-border skirmishes. This offer, interestingly, was rejected by India, reflecting this divergence of views regarding what constituted the core of the crisis. In other words – a point worth noting pending the moral assessment in the next section – not only did India not have UN support for their interventionist line, they also rejected UN proposals for conflict mediation.

After war had officially broken out in December, the Security Council convened, only to be deadlocked by squarely opposing views, particularly between the US and China on the one hand, and the Soviet Union on the other. The degree to which the Council was distracted by squabbling between the permanent members is amply obvious when the discussions of the Council are reviewed. Consider, for example, the following excerpt from a statement by the Chinese delegate (Singh et.al.1972: 503):

Supported by a certain big power, the Indian Government has become most arrogant and rampant.... It is not at all surprising that the Soviet leading clique is giving such naked support to the Indian aggressors. Ever since the Soviet leading clique betrayed Marxism-Leninism and embarked on the road of revisionism, it has been pursuing a policy of social-imperialism. It has carried out everywhere aggression, subversion, control and interference against other countries.

Needless to say, such lines of argument, with the inevitable responses that they effected, had little constructive effect, and the mood that these statements convey is not one of cooperation and undeterred focus on resolving the situation at hand with the well-being of the Bengali people placed at the forefront. Following Security Council deadlock, the matter was passed on to UN General Assembly who passed a resolution on 7 December calling for an immediate cease-fire. A *Time Magazine* article illuminates its view of the UN's response to the crisis in no uncertain terms:

The U.N. did its best to stop the war, but its best was not nearly good enough. After three days of procedural wrangles and futile resolutions, the Security Council gave up; stymied by the Soviet nyets, the council passed the buck to the even wordier and less effectual General Assembly. There, a resolution calling for a cease-fire and withdrawal of Indian and Pakistan forces behind their own borders swiftly passed by an overwhelming vote of 104 to 11. (Time 1971a)

Two important factors are illuminated by this quote; firstly, the Security Council's ineffectiveness is made amply clear. Furthermore, the fact that no less than 104 countries voted against the Indian invasion in the General Assembly highlights the degree of international skepticism at interventionism – even when this intervention was prompted by such a brutal military crackdown and the invasion was a direct response to Pakistani air-strikes on Indian territory. In the discussions preceding the resolution, 18 out of the 58 countries who commented explicitly emphasized the principle of non-intervention, still others explicitly focusing on the imperative of protecting Pakistani sovereignty – indications of the weight accorded to these principles even in the face of such large-scale humanitarian suffering (Singh et.al.:491-492).

The lack of international support was not well received in India, as has been indicated earlier. Ayooob and Subrahmanyam, two Indian writers, show no mercy in their assessment of the international community's actions in the build-up to the Indian invasion. In conclusion to this section, their view can form an interesting platform from which to embark on the moral assessment:

[T]o be fair to [the UN Secretary General] U Thant he was reflecting the overall consensus among the members of the UN who chose to treat the genocide in Bangla Desh as a domestic affair. This was also the attitude adopted by the governments of the majority of the countries visited by the Indian Ministers. They expressed their sympathy but were not prepared to take a stand. There is nothing to be gained by running away from the facts. The governments of the world, with a few exceptions, and the United Nations in its collectivity misled Pakistan to delude itself that it could get away with genocide and the demographic aggression it had committed by pushing ten million refugees into India. This may well have been a case where the United Nations by its cynicism and indifference made a war inevitable. (Ayooob & Subrahmanyam 1972:193)

While blaming the UN for the onset of war might be somewhat harsh, the above opinions certainly form a thought-provoking bridge into the moral assessment of the intervention that will now follow.

4.3 Analysis: a moral assessment of the intervention

Before I proceed with my moral assessment of the presented intervention, a few important points need to be noted. Firstly, it is clear that in this case (as in the next one) the question of the morality of the respective secessionist claims is an interesting and potentially relevant topic. However, while the assessment of India's actions in both cases must consider the entire context that these actions occurred in, it is important to remember that I am examining these actions in the light of a specific moral problem: that of the question of the morality of humanitarian intervention. As such, it should be kept in mind in the present case that an analysis of the morality of the Bengali secessionist struggle is not the central issue per se. The purpose of this paper is not to examine the conditions under which *secessionism* is morally just, but the conditions under which *humanitarian intervention* is morally just. Thus, the central issue is whether or not India, under the relevant circumstances, was morally permitted to intervene, *not* explicitly whether or not the Bengali people were morally entitled to a separate homeland.

That being said, however, there is no doubt that these two discussions overlap. In the present analysis, the question of the morality of the secessionist struggle might conceivably figure in several of the discussions surrounding different Just War criteria. It can easily be argued, for example, that a potential intervener need have less patience in seeking a political solution in cases where the humanitarian suffering to be relieved represents the culmination of a long-term pattern of repression – i.e. in cases when the secessionist struggle is just. As such, the morality of the secessionist struggle might be a feature of the “last resort” discussion. It can further be argued, still maintaining a focus on the question of humanitarian intervention, that systematic, long-term repression of a people *in itself* can be said to represent a humanitarian situation so “conscience-shocking” that, if taken far enough, justifies outside intervention. The question of the relationship between the morality of secessionist claims and the morality of humanitarian intervention thus raises new moral questions of possible relevance to this thesis: does systematic, long-term repression of a people in itself provide *sufficient* cause for humanitarian intervention? Or must the repression culminate in some great “conscience-shocking” act in order for intervention to be morally just? Is not long-term, intentional repression in itself conscience-shocking?

Michael Walzer would posit that a morally just secessionist movement could justly be supported by a direct intervention. As one of three exceptions to the general rule of non-intervention, Walzer maintains that unilateral intervention is morally just in cases where “a particular set of boundaries clearly contains two or more political communities, one of which is engaged in a large-scale military struggle for independence; that is, when what is at issue is secession or “national liberation”” (Walzer 1977:90). However, Walzer conceptually separates

intervention in support of a secessionist movement from humanitarian intervention, which is one of the remaining two exceptions to the rule of non-intervention. The present case revolves around a humanitarian intervention happening *in the context of* a secessionist movement, where the question of the morality of *humanitarian intervention* is in focus, not the question of secession.

To combine the two discussions, it is relevant to stress that a humanitarian intervention, in order to be truly effective, should attack the causes of the humanitarian suffering, so that the suffering is not simply halted momentarily only to return once the intervener has pulled out. One reasonable assertion, then, is that the question of the morality of the secessionist movement can affect what constitute morally just *goals* of a humanitarian intervention. In other words, given that humanitarian intervention is legitimately called for due to a conscience-shocking event, the legitimacy of the secessionist movement can affect the *extent* of intervention that constitutes a morally just response. Specifically, in the event that a secessionist movement coincides with a humanitarian disaster that legitimately calls for a foreign intervention, the justness of that secessionist movement might dictate whether or not the best way to ensure a positive humanitarian outcome *in the long run* is to intervene in support of the secessionist movement, or simply to intervene to ease humanitarian suffering, and then seek a political rapprochement between the conflicting parties.

Indira Gandhi focuses on this relationship in a BBC interview in November 1971: "... it would be very unfortunate if all the attention is on looking after the refugees rather than removing the cause of why this exodus is taking place, because as long as you don't deal with the cause you simply can't do anything except, you know, [provide] a little bit more comfort for the refugees" (Gandhi 1972:56). To generalize the implications of this seemingly reasonable assertion, any humanitarian intervention, to be truly effective, must deal with the *root causes* of the humanitarian suffering. In cases of secessionist movements that can be considered just, humanitarian intervention in direct support of the secessionist movement, may well therefore be morally just.

This relationship will be touched upon also in later discussions. For now, suffice it to say that while secessionism on its own poses many interesting moral questions, I am not in this thesis examining the question of secessionism in itself, but rather examining the extent to which India's interventions were morally just on the basis that they served to address humanitarian suffering in East Pakistan and Sri Lanka, respectively. In these discussions, the question of the morality of the secessionist movements can be of importance only insofar as this may add additional "moral value" to the interventions.

As the focus on humanitarian intervention must be maintained, then, it could be fruitful to repeat the definition of this concept presented in the introduction to this thesis: "coercive

interference in the internal affairs of a state, involving the use of armed force, with the purposes of addressing massive human rights violations or preventing widespread human suffering”(Welsh 2004:3). This definition again raises several conceptual issues that should be resolved before the intervention is assessed.

First of all, it should be stressed that the rapidly escalating refugee situation meant that India in reality could not avoid taking a stand and responding to the conflict in East Pakistan. As such, “intervention” might be criticized as a misleading label for the events of 1971. Indeed, this is precisely how the Indian government sought to portray the Indian actions in 1971: India was not intervening in Pakistan's internal affairs, as the situation being responded to was not only an internal Pakistani affair. It was an affair that as a result of the refugee situation had grave implications for India as well, and as such it was also an Indian affair that warranted an Indian response. Nonetheless, it must be pointed out that the Indian involvement in the end took the shape of a full-scale military invasion that brought about a fundamental change in the internal structure of Pakistan. Therefore, in my view, calling the Indian response an intervention rather than just a response to a problem that was having internal consequences for India seems reasonable; if nothing else, this conclusion is reasonable simply because of the massive consequences the action had for the internal structure of Pakistan. Furthermore, the Indian response has since repeatedly been invoked as a “classical example” of humanitarian intervention, something that on its own justifies an analysis of the actions in such terms.

Having clarified that the Indian response can be labeled an intervention, and with the above-mentioned definition in mind, there are two ways to regard the Indian actions in 1971. One way to look at the Indian actions is to say that Indian intervention started as soon as India decided to actively support the Mukti Bahini. On the other hand, one can say that such covert support for foreign secessionist movements is so commonplace in international relations that it would be misleading to label it “intervention”. Such a view would comply with the mainstream view, which generally refers to the Indian intervention as the Indian invasion of East Pakistan, which formally started on 4 December and ended 13 days later. Although seeing the value of the conceptual simplicity of the latter perspective, my view coincides in part with the former; military training and support so comprehensive and indeed overt as that which India eventually provided to the Mukti Bahini, cannot, in my view, be considered anything other than “coercive interference in the internal affairs of a state, involving the use of armed force.” As such, then, the “coercive interference” of India on the affairs of East Pakistan, essentially began at some point during the middle of 1971, well before the actual invasion that occurred in December. It is India's actions in this entire period, therefore, *culminating* in the invasion of December 1971, that should fall under the label of

intervention, not simply the invasion itself. The decision of India to intervene, in my view, essentially began with the decision to support the Mukti Bahini to *an extensive degree*, involving the use of Indian training camps, troops and military hardware, something that probably began at a relatively early stage of the crisis. The ensuing military escalations culminating in war and invasion can thus be seen as continuations – indeed results – of India's interventionist policy.

Indications that this represents a reasonable interpretation of events are given by the following assessment by Ayooob and Subrahmanyam (1972:216) of the reasons for the Pakistani air-strike: “In the East, India appeared to have launched on a very sophisticated exercise of eroding the difference between war and peace and desensitising the world to possible armed action by India. Yahya was afraid that India might get away with it. Given India's numerical superiority Pakistan could not afford to let India have a first disarming strike.” The situation had already escalated into a virtual state of war between Pakistan and India prior to December 1971, as a result of the Indian backing of the Mukti Bahini. Although it is hard to set a definitive date for when the Indian involvement evolved into “intervention,” it seems reasonable to presume that a conscious decision to support the Mukti Bahini in an extensive way, involving at times the use of Indian troops and artillery – with Indian troops later even crossing the border into East Pakistan – was taken sometime in mid-1971.

With these considerations in mind, I will now engage in evaluating the Indian intervention in East Pakistan in 1971 against the first criterion for just war, that of just cause.

4.3.1 Just Cause

Did India, in 1971, have just cause for intervention in East Pakistan? Specifically – since what is being examined is the concept of humanitarian intervention – was the humanitarian suffering of such a character that it justified an armed response from an outside power? Let us recall the opinions presented in Chapter 3 of two well-known contemporary Just War thinkers on what justifies humanitarian intervention. Michael Walzer (1977:107) maintains that humanitarian intervention is morally just when it is a response to acts that “shock the moral conscience of mankind.” Nicholas Wheeler (2000:34) posits that humanitarian intervention is just in the face of any “supreme humanitarian emergency,” including under this category “genocide, state-sponsored mass murder and mass population expulsions” and “state breakdown,” events which are of a different character than the “ordinary routine abuse of human rights” that occurs daily many places in the world. Following from these guidelines, the focal point of any discussion of the justness of the Indian cause in 1971 should be the nature and scale of the killings in East Pakistan, as well as the nature and scale of the refugee situation.

In my opinion, it is without doubt, particularly with all that is known now, but also with what was amply clear at the time, that the Pakistani government's actions in East Pakistan from 25 August 1971 onwards can be labeled "conscience-shocking." By anyone's reckoning, the killings were large-scale. Already a month after the killing started, Western media was as mentioned estimating a death-toll of 200,000 (Time 1971e). The fact that such massive sections of the population were fleeing to already overfilled refugee-camps with appalling conditions also indicates that what they were fleeing from was far from pleasant. As mentioned, the number 1,500,000 is currently recognized as a reasonable estimate of the number of dead (Rummel 1998), with some estimates having been as high as 3 million. Both the labels of "state-sponsored mass murder" and "mass population expulsions" can be applied to this case without much controversy, and many have as mentioned applied the term "genocide." Most would at the very least agree that the events following 25 March were of a different character than "ordinary routine abuse of human rights," to again cite Wheeler (2000:34). The evident premeditation and planning of the operation, the deliberate targeting of certain groups – particularly the massive persecution of the Hindu minority – and the sheer scale of the humanitarian disaster that the ensuing refugee situation represented, are all elements that substantially legitimate the assertion that India, according to the guidelines of Walzer and Wheeler, had just cause for humanitarian intervention in 1971. Indeed, both Wheeler (2000:55-77) and Walzer (1977:102-107) analyze the case of India in Bangladesh in 1971, and come to the same conclusion.

In addition to this, alluding to the above discussion, one can conclude that the morality of the cause was further supported by the background to the secessionist movement – the systematic repression of the Bengali people lasting for more than two decades, culminating in the brutal denial of their democratically portrayed will. With reference to Michael Walzer, the state that was Pakistan by anyone's reckoning contained "two political communities," something easily confirmed by the 1970 election results. Moreover, the unique geographical structure of Pakistan ensured that these two communities existed in mutually exclusive territories, and as such one of the main complicating factors in most secessionist struggles – the drawing of boundaries – was never an issue. In hindsight, few would argue against the fact that the Bengalis, following decades of repression and exploitation, had a morally just claim to secession – a claim that lends additional morality to the Indian cause for intervention in 1971.

On another note, keeping in mind that this case is often referred to as one of few "classical" examples of humanitarian intervention, it is interesting to point out that India never relied solely on humanitarian arguments in justifying their intervention in the conflict. Their main justification revolved around the economic and social burdens that the refugee-flow placed on India. Although

sympathy for the humanitarian plight of the refugees was implicit in this argument – and, it must be noted, the nobility of the Bengali struggle for independence was frequently acclaimed by Indian officials – support for the people of East Pakistan was always secondary to self-conservation in attempting to justify intervention to the international community. The refugee situation – the main focal point in Indian argumentation – was as mentioned categorically referred to as “demographic aggression,” evoking the ever-legitimate cause of self-defense against aggression. This focus on self-defense rather than on the humanitarian aspect is interesting in light of the fact that this has since been argued to be one of the most clear-cut cases of legitimate unilateral humanitarian intervention. Might this be seen as an indication that the Indian government did not assume humanitarian suffering in itself to provide sufficient cause for intervention? The question, of course, cannot be answered, but a reasonable assessment might be that regardless of what the Indians assumed to provide sufficient *moral* grounds for intervention, the invocation of self-defense justification may likely have been motivated by concerns for international *legitimacy* – bringing to mind the discussion introduced in the introduction regarding the relationship between these two entities. Regardless, the conclusion of the above discussion still stands: the humanitarian situation in itself was sufficient justification for intervention; an invocation of the cause of self-defense only adds “moral stature” to this already just cause.

In fairness to India, it must be said that sympathy for the plight of the Bengali people was never far beneath the surface of any argument. Indira Gandhi, in the following statement made in a speech during her November trip to Washington, seems to combine the justifications of a response against aggression and defense of the suffering civilian population when justifying the placement of Indian troops along the East Pakistani border.

We are told that the confrontation of troops is a threat to peace. Is there peace when a whole people are massacred? Will the world be concerned only if people die because of war between two countries and not if hundreds of thousands are butchered and expelled by a military regime waging war against the people? We cannot draw upon precedents to deal with this unprecedented variety of aggression. We have to devise new patterns of response. (Gandhi 1972:66)

In sum, I believe there can be little doubt that the cause for intervening in the East Pakistan conflict in 1971 was morally just, both in light of the scale of the suffering in itself, in light of the long-term pattern of injustice that the events of 1971 signified the culmination of, and in light of the burdens being inflicted on India by the refugee-situation. In spite of this, however, India's justification for intervening largely revolved around the latter argument, attempting to pass off the intervention primarily as an act of self-defense – indicative, perhaps, of a sense that appealing to humanitarian ideals alone would not be sufficient to justify India's actions to the international community.

With these conclusions in mind, we can move on to discuss the next criterion: that of right intentions.

4.3.2 *Right intentions*

One of the main issues in this discussion would seem to revolve around India's intentions in intervening in the East Pakistan conflict. There can be no question that the Indian intervention was by no means *only* a selfless act aimed at relieving the suffering of the Bengali population. As Ganguly assesses, “[a] return of normalcy and the repatriation of the refugees provided a perfect moral cover for direct military action” (Ganguly 1998:124). The moral “high ground” was seemingly always going to be India's in this case (even though this may not have been the professed opinion of the majority of the international political community at the time). Did they abuse this moral high ground to go to war with Pakistan for selfish reasons? As mentioned, their primary argument for intervention in East Pakistan was officially self-preservation, not protection of the East Pakistani populace. Rather than simply indicating the Indian perception of what constituted a “just cause” in the eyes of the international community, as argued above, can this possibly be seen as an indication that selfish intentions had precedent over the humanitarian motive in intervening?

To deal with the question of right intentions, let us first examine possible ulterior³⁰ motives that India may have had in getting involved in the East Pakistan conflict in 1971. Barring the arguments for intervention following from the suffering of the refugees and the sympathy brought about by the cultural affinity between India and East Pakistan, Ganguly (1998:108) proposes two motives for Indian intervention in favor of the Bengalis: concern for the internal political situation in the Indian state of West Bengal, and, not least, the prospect of cutting Pakistan down to size. On the first count, the Indian state of West Bengal had ever since partition been a “hotbed of radical politics” (ibid.:113). Particularly, there had even before partition existed a leftist movement whose explicit goal was the creation of a communist state in Bengal. The main faction of this movement eventually became known as the Naxalites, a country-side guerrilla movement with adherents on both sides of the Bengali border, which caused considerable unrest in West Bengal. With the turbulent situation in East Pakistan, it was feared that Naxalite sympathizers on both sides of the border would step up their campaign and pursue, conceivably with Chinese support, an independent, unified Bengali state, something which “posed a serious threat to the political and territorial integrity of India” (ibid.:118). As such, it was important for India to push for a quick resolution of the East Pakistan issue that would defuse the threat posed by the radical movement.

³⁰ The label of “ulterior motives” may well be taken to have negative connotations, implying motives that are intentionally hidden as a result of their negative moral character. Such connotations, however, are not necessarily implied in the present context. Rather, the term is taken as meaning “other motives,” or “additional motives,” possibly but not necessarily hidden, and possibly but not necessarily of a negative moral character.

The encouragement of Bengali nationalism and the creation of an independent state of Bangladesh would resolve this issue perfectly.

On the second count, dismemberment of Pakistan “would serve two purposes. One, it would deal a severe blow to the ideological foundation of the Pakistani state based on the Two-Nation theory. It would, further, remove a major external security concern by eliminating a hostile Pakistan from the eastern part of India and substituting it by [sic.] a grateful and friendly state, Bangladesh” (Ganguly 1998:108). The Two-Nation Theory, which had led to the partition of India, had long been a major issue of contention between the Pakistani heirs of the pro-partition Muslim Leaguers and the Indian heirs of the anti-partition Congress Party. Thus, on the ideological level, a successful secular Bengali secessionist movement would be a perfect way to discredit this theory, something that provided incentive for Indian support of the Bengali movement. Furthermore, on the strategic level, dismembering the arch-enemy Pakistan would serve to deprive it of more than half of its natural and human resources, and not least remove half of the Indo-Pakistani border mileage. The benefits of this to India speak for themselves.

To these motives can be added another consideration that India made in 1971. Again, the strategic interest in having a friendly neighbor in the East instead of a hostile one, is obvious. As such, the mentioned good relations between the Awami League and Indian authorities constituted a key variable: it was in India's best interests to have an independent Bangladesh as a neighbor, led by the friendly Awami League. However, as the military crackdown continued and the Mukti Bahini's campaign dragged on, there were fears that the Awami League, until then the undisputed leader of the independence movement, would lose its authority. Specifically, the Awami League had been criticized for waiting far too long before declaring independence, being gulled into hoping for a political solution by Yahya Khan's political game. This delay had allowed Yahya to build up his military forces in East Pakistan, in preparation for the impending crackdown. Returning to the question of Indian motives, in the Indian government's official collection of documents regarding the East Pakistan crisis³¹ the following evaluation is made: “[t]he emergence of an independent Bangla Desh appears to be inevitable in the long run. What remains in question is how much blood will flow before it occurs. Politically it is clear that the longer it takes to achieve independence, the more likely it is that control of the independence movement will slip away from the moderate leadership of the Awami League to the more leftist National Awami Party ...” (Singh et.al. 1971:14). The National Awami Party, which had not run in the elections in 1970, was more radical,

³¹ The “Bangla Desh Documents” were published in two extensive volumes, the first volume being released in the midst of the crisis, in September 1971, the second after the crisis's resolution, in 1972.

and a far less enviable political neighbor for India. It was thus in the Indian interest to ensure that the “inevitable” emergence of Bangladesh was not too far delayed.

It is clear, then, that India had much to gain from supporting the Bengalis in their struggle against the Pakistani government. This need not, however, mean that India was not acting out of genuine humanitarian concern. But how can one determine which considerations carried the most weight for Indian policy-makers in 1971? Recalling Fixdal and Smith (1998:16), “[t]he way to identify ulterior motives is, in part, by observing discrepancies between rhetoric and action, by finding – usually retrospectively – a record of plans and arguments that discredits the official, publicly stated version.” So what was the official version? That India was acting in self-defense, as a response to Pakistan's “demographic aggression,” in order to ensure that the refugees would be able to return home and that the Bengali people would win a just settlement of the dispute that had been caused by the Pakistani government's denial of the 1970 election results. An analysis of the Indian actions in 1971 as such reveals no serious discrepancies between rhetoric and action. The Indian invasion did allow the refugees to start returning home, and they did precisely that soon after the Pakistanis announced their surrender. It would be unjust to deny India recognition of the fact that their actions brought about a massive improvement in the humanitarian situation in East Pakistan and indeed in West Bengal. In addition to this, it can easily be argued that the only solution acceptable to the Bengali population following the military crackdown was independence for Bangladesh. Thus, though also catering to Indian interests, the liberation of Bangladesh also can be said to have represented the only way to ensure a sustainable humanitarian situation.

Furthermore, it is significant that India did not utilize the situation to make any undue territorial conquests, either in the East or the West. Precisely the fact that the Indian Army did not seem to make any plans or any moves aimed at inflicting major damage on the Pakistanis on the Western front, particularly in the disputed area of Kashmir during the December war (Ayoob & Subrahmanyam 1972:224) speaks positively of the Indian intentions in 1971. On the Eastern front, the Indian Army pulled out of Bangladesh within half a year of the military victory, a fact that again disarms any suspicions that the “real” Indian intention was territorial conquest. Of course, the aforementioned motive of replacing the hostile East Pakistan with a friendly state was achieved. However, whether one chooses to see this as a “positive side-effect” of an intervention aimed at alleviating humanitarian suffering or vice versa is a matter of interpretation. The important point is that the former interpretation cannot be discarded. A tentative conclusion might therefore be that, although it is certainly conceivable that ulterior motives were present, they did not appear to outweigh, or run contrary to the “genuine” humanitarian motive, or the other official motive of self-defense – a motive that is always seen as morally just. At the very least, the more selfish Indian

intentions may have been conveniently overlapping with and thus “veiled” by the justifiable humanitarian argument, as indicated in the introductory quote from Ganguly. In such cases, it is hard to determine exactly whether the intentions were “right” in a strict sense of the term.

If this tentative conclusion is not entirely satisfying, one is consigned to searching for small indications of the real Indian intentions. On this note, regarding the question of self-defense – proclaimed to be the central intention behind the Indian action – one aspect of the Indian argumentation specifically warrants examination. The term “demographic aggression,” frequently invoked by the Indian leadership, *can* be perceived as somewhat misleading and inaccurate, and, as such, conceivably be viewed as an indication of selfish intentions being the main driving force behind the Indian intervention. As mentioned, the term “aggression” implies that Pakistan was deliberately pushing people over the border to India, with the intention of causing India harm. It is not entirely clear, however, that this is an accurate assessment of the situation. It is not unreasonable, for example, that the Pakistani actions – as Pakistani authorities certainly claimed – were simply intended as a way to regain control³² and that the refugees were a “side-effect” of sorts, rather than a result of deliberate “aggression” against India. As such, the hasty adoption of the aggression label *can* be criticized as an attempt by India to justify intervention in favor of the Bengalis at a very early stage – perhaps an indication that India was “jumping at the chance” to weaken Pakistan to its own benefit, eying the possibility to do so while condemning Pakistan as an “aggressor.” Though this argument admittedly seems somewhat speculative, it seems obvious that, regardless of which intentions carried the most weight in the minds of Indian decision-makers, India had much to gain from dividing Pakistan, and the suspicion of selfish intentions cannot entirely be shaken on close inspection of Indian rhetoric. Nonetheless, the tentative conclusion presented above still stands.

In spite of this tentative conclusion, however, the intentions question is not quite adequately dealt with yet. To cover another perspective on the intentions question, one may venture into the somewhat dangerous field of counter-factual reasoning and ask whether the situation would have escalated into an all-out invasion *had it not been* for these other incentives for intervention. Would the situation have escalated as it did had it not been for the existing animosity between India and Pakistan and the potential strategic gains that India could achieve through intervention – even if these were not have been the main driving force behind the Indian actions? One might argue, of course, that escalation was inevitable due to the pressure that the refugee situation exerted on India. This, however, may also be seen as a “self-interested” motivation on the part of India. Generalizing

³² Obviously, they would have known that such brutal action would cause some people to flee. Furthermore, for example Rummel, as quoted earlier, has also subscribed to the view that the Pakistani army was deliberately pushing Hindus over the border. However, allow the argument for the sake of discussion.

the question, then: will humanitarian suffering in other countries – regardless of the scale – ever be enough to persuade other countries to intervene if they have no immediate gains to their own interests, and following from this, will there ever be cases where the humanitarian motive is the only discernible motive? The question, obviously, is rhetorical. An illuminating answer might be that if the Bangladesh case can be referred to as one of the best examples of legitimate humanitarian intervention, this is not likely to be the case, as the above discussion has proven. History has yet to provide us with any case of totally pure intentions³³. Ulterior motives will likely always be present, as they were in the Bangladeshi case. The question then becomes: given that they will always exist, what effect should ulterior motives have on a moral assessment of a humanitarian intervention? Specifically, *when* should these ulterior motives render the entire operation morally unjust?

This question will also feature in the comparative analysis in Chapter 6, the backdrop for which is the discussion of the intentions criterion in contemporary Just War thinking, presented in Chapter 3. As mentioned, while classical Just War theoreticians viewed the intentions criterion as vital, contemporary Just War thinkers have increasingly come to look at the criterion in a more realistic light, accepting the presence of ulterior motives as inevitable, indeed as necessary for any country to engage in a humanitarian intervention in the first place, and retracting the “threshold” status of the criterion. What is important, for example, for Wheeler is that “the motives, and the means employed, do not *undermine* a positive humanitarian outcome” (Wheeler 2000:37-39).

In the case presently being analyzed, it seems clear, to put this discussion to a temporary rest, that while India certainly had selfish motives to intervene in East Pakistan – intentions that perhaps can be traced in certain aspects of the Indian response – these motives by no means undermined a positive humanitarian outcome. This is an assessment shared by most analysts of this case, for example Bruno Coppieters and Boris Kashnikov (2002:68-71) who assess the case specifically in light of the Just War criterion of intentions. Put otherwise, one might assert that India in 1971 seemed to have both “right intentions” and “other intentions,” these other intentions in my opinion not being contrary enough to the humanitarian intentions to warrant the term “wrong intentions;” crucially, the well-being of the people of Bangladesh was never going to be sacrificed in an Indian pursuit of selfish goals. India had much to gain from breaking up Pakistan, and one can never know for sure whether this was the main intention of India in 1971 or simply, “conveniently,” regarded as the only way to ensure a positive humanitarian outcome. However, Kumar's evaluation of the Indian policy towards East Pakistan in 1971 is that it “had never been a policy planned in

³³ One may, of course, examine for example the cases of Somalia or Kosovo – cases where, one might say, humanitarian intentions figured as the main driving forces behind the Western interventions. However, other intentions surely figured also in these cases. Nonetheless, for considerations of space such a discussion must be consigned to other arenas.

advance to achieve Pakistan's breakup through military support to the East Bengalis” (Kumar 1975:497). It seems fruitful to leave this discussion at that, at the present moment, and return to it in the comparative analysis in Chapter 6.

4.3.3 *Legitimate authority*

Perhaps to an even greater extent than the question of intentions, the question of legitimate authority represents a controversial topic in a discussion of the Indian intervention in East Pakistan in 1971. Not only did India invade and divide a sovereign country without UN backing, it was done in the face of condemnation from much of the international community, with India rejecting a UN offer of sending observers to ensure a cessation of border hostilities prior to the invasion, and ignoring an overwhelming vote in the UN General Assembly calling for a cease-fire following the invasion. India intervened largely alone, moral support coming largely from the Soviet Union³⁴, most other countries at best offering assurances of sympathy. The overwhelming vote at the General Assembly indicates that even the Indian attempt to justify the invasion of East Pakistan as “self-defense” did not win recognition amongst the majority of the world's states. The intervention was by all conventional measures “illegal.” The question is, then, does this render the intervention *immoral*?

One of the main problems with UN authority, as mentioned, is its ineffectiveness. Indeed, this ineffectiveness is self-admitted; failing to agree on a response to the Indian invasion of East Pakistan, the Security Council resolved only that “the lack of unanimity of its permanent members ... has prevented it from exercising its primary responsibility for the maintenance of international peace and security” (United Nations Security Council Resolution 303:1971). Such admissions most definitely contribute to limiting the perception of the UN's authority. Importantly, as the discussion in Chapter 3 showed, the UN's ineffectiveness is one of the main factors contributing to the acceptance in Just War circles that a failure to obtain UN backing by itself should not render a military action immoral. The Security Council, after all, is a theater for international politics, where the members – to adopt a realist perspective – are often driven by self-interest, not necessarily by concern for the “common good.” In the Just War Tradition, legitimate authority to wage war – if the cause is just – lies with the entity responsible for protecting the people. While the UN in moral terms might ideally represent the “ultimate” legitimate authority, the fallibility of the UN, at least in my opinion, entails that, at present, the final authority to declare a just war remains with the

³⁴ It should be noted, to be fair, that France, Poland, and the UK, along with the Soviet Union, abstained from the Security Council vote to call for a cease-fire on 6 December (Resolution 303: 1971), which could well be placed under the category of offering “moral support”.

sovereign state. While UN backing should ideally be sought, then, it is not a moral necessity that such backing be granted.

Following this line, let us conclude again that failure to obtain a UN mandate can be overlooked in the present moral assessment. In terms of Indian authority, there seems to be no doubt that the intervention was supported by a unified Indian government. This government, furthermore, was democratically elected and backed in its decision to go to war by Indian popular opinion. The Indian government, then, as the legitimate representative and protector of the Indian people, would according to Just War thinking be authorized – even *required* – to wage a war if the cause was just – something that was determined to be the case in the above discussion.

Is this sufficient to render the legitimate authority criterion fulfilled, disregarding the requirement of a UN mandate? One major question still requires discussion.

Failure to get a Security Council mandate for intervention can be ascribed to the entity's ineffectiveness due to political rivalries. However, an overwhelming majority of the international community of states supported a resolution calling for an immediate cease-fire following the invasion of East Pakistan – 104 countries voting for the resolution and only 11 against. In other words, the *clear majority* of the international community was opposed to Indian invasion. Presumably, such widespread opposition cannot be explained away merely with reference to superpower influence or dogged adherence to the principle of non-intervention³⁵. Rather, it should be an indication (at least for the sake of argument) that the majority of the world's states considered the case for intervention to be insufficient, or considered other methods to be more just in the relevant context.

Zulfikar Ali Bhutto would certainly conclude that the General Assembly resolution accorded legitimacy to the Pakistani government's position. Consider the following, highly interesting parallel, made in a speech following the Indian invasion:

One hundred and four countries of the world supported Pakistan and this is an international plebiscite. This is an international election. India talks about elections of December, 1970, in the country.... But if India wants to invade Pakistan to interpret the will of the people of East Pakistan as a result of the elections of December, 1970, why does not India pay heed to an international election? (Bhutto 1972:6).

The equating of the international opposition to the intervention with the concept of a “plebiscite,” or “international election,” accords significant authority to international majority opinion, particularly when a direct comparison is made to the elections in East Pakistan preceding the crisis which are

³⁵ Although Ayoob and Subrahmanyam (1972:238) would claim this to be the case: “The vote in the General Assembly indicated how much the international system was under the manipulative control of the big powers. The resentment of such big power dominance was however reflected in the rapid recognition accorded to Bangla Desh by most of the industrial nations of the world within two months of its liberation.”

implied – also interestingly – to be a source of “authority” underlying the Indian position. In light of this perspective, then, the question is what gives India the authority to act as moral judge on its own, acting contrary to the assessment of a clear majority of the world's states – contrary to, as Bhutto would say, the “authoritative” results of an “international election?”

The question is intriguing. Dealing with it touches upon some questions of a more fundamental character: is an opinion backed by many people morally superior to an opinion held by one? The answer to the question would be straight-forward if the issue at hand was of an objective nature; objective issues can more easily have right or wrong answers, and the “right” position is the right position, regardless if this is the position held by one person or a million people. All of mankind maintaining that the world is flat does not make it so, for instance; the one person claiming that the world is round is right, no matter how many people oppose him. However, the situation is different when what is being discussed is a question whose answer depends on a subjective assessment. For example, if the majority of people believe that capital punishment is immoral, while a minority fervently maintains that it is just punishment for certain types of crime, who is right? In such questions there are no clear-cut answers. Who is then to decide what is just, if not the majority? Getting back to the relevant case: if the majority of the world's states believed that intervention in 1971 was not a justifiable answer to the East Pakistan crisis, does that mean that India's actions were unjust – as Bhutto indicates? What makes “Indian authority” more legitimate than “international authority?” Relating this to the question of legitimate authority, should not the majority of states have the final authority to decide whether or not military intervention is a morally just option? If not, what is to prevent a situation of frequent unilateral interventionism?

One could fill volumes on questions regarding moral reasoning and absolute truths, but these are not the main topics of the present thesis. To approach the relevant question of whether or not the majority opposition towards India's invasion should render it immoral, one can first return to the basic tenets of Just War thinking. For, recalling Chapter 3, the purpose of the Just War Tradition is precisely to attempt to determine objective and universal criteria for when a war is morally just. As such, it can be said that there *are* right and wrong answers to the question at hand. Following an assessment of the cause for intervention, using these guidelines – developed by centuries of moral reasoning – the above conclusion was that the cause for intervention in East Pakistan in 1971 was just. As such, it would not matter have mattered if India was the *only* country to realize this; it is still the right conclusion, and no amount of opposition would render it unjust.

Related directly to the question of legitimate authority, the lowest level of authority that may legitimately *act* on the basis of just causes for war is the sovereign state. Authority to go to war does not necessarily stem from numbers, but from the responsibility to protect people that inheres in the

sovereign state. Each sovereign state, on its own, has this responsibility – primarily over its own people – and thus this authority. What, however, of people who are not being protected? Do they not deserve protection? If they do, who has the authority to protect these people? I see no reason why another sovereign state, *genuinely acting on behalf* of these people, and in direct accordance with their wishes, which are being adhered to by no other government or supra-national authority, should not have the morally legitimate authority to go to resort to the use of force in protection of citizens outside its own borders – if the cause is deemed just with reference to “objective” moral guidelines.

The above argument in essence boils down to the following: presuming that the cause truly was just, and that the Indians actually acted with the intentions of addressing that just cause and not (primarily) in order to pursue selfish objectives, no matter of opposing opinions could render the Indian *authority to act on behalf of the Bengali people* immoral. Crucially, furthermore, the mentioned opinions of the majority were opposed to the opinion of the oppressed people themselves. Alluding to the above quote by Bhutto, then, the key to this discussion seems to lie in the one part of his statement that was intended only as a point of reference: the Bengali demonstration of their desire for autonomy as indicated by the election results in December 1970. The Indian government, in 1971, could legitimately claim to be acting on behalf of the people of Bangladesh – as Bhutto himself essentially indicates. When it comes to weighing the authority of a national election involving the involved people themselves and an “international election” involving other countries, most of whom have no direct interest in the conflict at stake, the former seems clearly to be the more legitimate source of authority, from a moral perspective. Who better to decide whether or not intervention was the right answer than the people the most affected? It is clear that the almost unchallenged majority of the Bengali people wanted an expulsion of West Pakistani troops and independence. This alone may be single factor that decisively renders the Indian authority to act morally legitimate. The Indians claimed to be acting on the authority of the Bengali people as demonstrated by the election results. Pakistan claimed that their authority rested on the international consensus, inherent in the principles of international society and reinforced by the UN vote. This is an interesting juxtaposition. Which source of authority is more legitimate, from a moral perspective? It seems intuitive that the answer is the authority stemming from the opinion of the oppressed.

This discussion, then, would seem to lead to the conclusion that India, despite the fact that the UN and the majority of its member states opposed Indian intervention and invasion, had legitimate authority to undertake these actions. It would be relevant to revisit a quote presented in

Chapter 3 related to contemporary application of the legitimate authority criterion in Just War thinking: “the legitimate authority criterion can be regarded as responsive to the other criteria. The more glaring the injustice to be remedied, the less clear the authority may need to be; conversely, the more there are alternatives to the use of force, the more solidly grounded the authority for intervention must be” (Fixdal & Smith 1998:12). It seems this point is reinforced by the Bangladesh case. If the cause is unequivocally just, as I have determined this cause to be, an actor can act unilaterally with a solid moral foundation, following the logic of the argument above: in a question that has an answer that is *clearly* “right,” no amount of opposition will render this “right” answer “wrong.” On the other hand, if the cause is more ambiguous, one lone actor may be said to represent an insufficient authority: in questions where it is more uncertain what is “right” and what is “wrong,” the more support you have for your answer, the more believable it becomes.

To round off this discussion, it should be maintained that international support would never serve to *deplete* the moral stature of an intervention, and as such is always something that will be – and should be – sought. Reflecting the Indian exasperation at the defensive international position are the Indian authors Ayooob and Subrahmanyam, writing a year after the fact:

In Bangla Dosh a population larger than Israel's has been massacred with the rest of the world treating it, in the words of Joseph Sisco, the U.S. Assistant Secretary of State, as “an intimately internal affair”... The killings in Bangla Dosh were equal to the use of seventy-five Hiroshima type nuclear weapons....is it that brown men killing brown men does not matter and what does not involve directly white men is of no concern for some of the self-appointed conscience keepers of mankind? (Ayooob & Subrahmanyam 1972:167-168).

The quote, in addition to illuminating Indian sentiment, reveals a basic problem with the present situation of the UN being the only body legally entitled to authorize military actions not in self-defense: the UN, the closest one comes to a “conscience keeper of mankind,” is self-appointed. Moreover, it consists of independent states, each state having separate interests, concerns, and viewpoints. This further supports the conclusion that the UN's authority in no way is morally superior to national authority. At least in hindsight, but to a great degree also at the time, the international community had no excuse for being ignorant to the gross injustices being committed in East Pakistan. Still, the majority of the world's states did nothing, even *said* nothing, and those most vociferous, also at the UN, were largely engaged in condemning India for illegal interventionism. Indira Gandhi herself pointed out in June 1971 that “If even ten thousand refugees [arrived] in any European country, the whole continent of Europe [would] be afire with all the newspapers, the Governments and everybody aroused” (Gandhi 1971:24). Few would doubt this conclusion. The selective and hypocritical nature of the international community is precisely what speaks in favor of legitimate authority for intervention remaining

in the hands of the sovereign state. If intervening on behalf of persecuted people from another state, the authority to act stems directly from these people; from a moral perspective, authority stemming from the support of the people being intervened in protection of seems far more legitimate than authority stemming from any majority of ultimately uninvolved foreign states, no matter how clear. In this sense of the authority concept, India, in 1971, had legitimate authority to intervene.

The three main criteria dealt with, we can now move on to discuss the three “prudential” criteria that remain.

4.3.4 Last Resort

Should India have acted with more patience in 1971? Indira Gandhi and the Indian opinion as a whole would certainly disagree (see, for example, Gandhi 1972:126). That being said, the discussion of last resort in this case must inevitably be seen in light of the definitional question of when one conceives of the “intervention” starting. The answer to the question of whether or not India held back as long as they could and used power only reluctantly as a last resort will depend on the chosen understanding of when the Indian intervention began. The Indian invasion on 4 December was a response to a Pakistani first strike, and few would deny India the right of responding to an attack with the use of force. As such, if by intervention one exclusively means the Indian invasion, the label of last resort for the Indian intervention seems suitable. Indeed, in light of the unconciliatory stance of Yahya Khan, India could have been forgiven for determining far earlier than December that only military defeat of the Pakistani Army in East Pakistan would end the brutality and the ceaseless refugee-flow to India, and acting according to this determination with the use of direct military force at an earlier stage. However, they chose instead to refrain from full-scale invasion of East Pakistan until they had been attacked first. Indira Gandhi seemed to press for a political solution even as late as November, when she undertook her tour of Western states to garner international support. Thus, Indian intervention, in terms of *direct* military intervention, can be portrayed as being used as a last resort.

On the other hand, it can easily be argued that the situation finally escalating into all-out war had largely been shaped by conscious Indian decisions long prior to December – a view that I subscribed to in introduction to the moral assessment. Let us therefore alternatively evaluate the “last resort” criterion applying a liberal definition of intervention, that is, assuming that the Indian intervention essentially started when India began extensively supporting the Mukti Bahini by providing them with direct military support, something that probably happened already around mid-1971.

It has already been noted that India following 25 March “picked sides” very quickly, formally declaring Indian support for the secessionist forces only a short while after the military crackdown, an indication that they probably commenced their support for the Mukti Bahini very early. By the second half of 1971, this support had grown to include organized arming and training of new Mukti Bahini recruits in Indian camps, and allegedly also direct involvement of Indian forces and artillery. As such, it can not be said that India intervened – direct support for the Mukti Bahini included as intervention – as a last resort. Rather, it is conceivable that India's early support to a greater extent was a result of the traditional animosity with Pakistan than a result of an assessment that this was the “last resort” open to India. There were very arguably other possible avenues open; opening the border to refugees and attempting to care for them did not *necessarily* need to coincide with military support for the Mukti Bahini and thus the encouragement of a military conflict. The ensuing situation could well have developed differently had India chosen to take a more neutral stance to the military aspect of the conflict. It is not unreasonable to assume that this early Indian support encouraged the secessionist forces to expand their armed insurrection, thus encouraging a pattern of military escalation.

Applying this perspective, then, the use of force was not necessarily a “last resort.” Rather, it *can* be seen as a “grabbed opportunity,” the Indians not necessarily seeing the use of force as the last feasible option, but rather seeing this as an excellent chance to be able to confront and militarily weaken their main enemy – all the while formally pressing for a political solution. The early implementation of an interventionist line – applying a liberal interpretation of the intervention definition – was not unambiguously forced upon India. And in many ways, this early involvement served to render direct military conflict inevitable due to the escalations that it brought.

These observations must however be taken cautiously; given the brutality of the military crackdown that has by now been amply documented, as well as the degree of alienation felt by the East Pakistanis portrayed in the early sections of this chapter, it seems quite improbable in hindsight that any sustainable political solution was ever actually on the cards after 25 March. This does not necessarily change the conclusion that Indian support for the military struggle was not a last resort. The assessment that a political solution was unlikely is as noted being made in hindsight – there was still the possibility at the time, from an Indian perspective, of taking a neutral stand on the military aspect of the conflict rather than encouraging it, while seeking a political compromise. Indeed, it can be termed something of a conflicting signal that India was calling for a political solution through the diplomatic channels while simultaneously supporting the armed struggle. India could conceivably have maintained a more neutral stance for a longer period of time, pending

international pressure for a political solution, and chosen to resort to supporting the Mukti Bahini only when it became totally clear that such pressure would be insufficient.

Although this would have been a possible option for India in 1971, then, in retrospect, it is not certain that waiting with military intervention would have helped. Instead, the situation might have been better served by a greater Indian military involvement at an *earlier* time. Although hindsight must always be used humbly, it is possible to conclude now that an earlier invasion by India might have saved many lives. Thus, one is faced with conflicting conclusions: although India did not intervene as a last resort, an even earlier full-scale intervention could have saved many lives. This possibility reveals the main problem with the last resort criterion: it is always hard to determine the right course of action when faced with a critical situation, and assessments of potential consequences will always be fraught with uncertainty. How long should one wait, if the cause for intervention seems just? Is it really just to require that intervention only happen as a last resort? As mentioned in Chapter 3, the last resort criterion demands that all other *feasible* solutions to a crisis be attempted – to apply a (arguably too strict) chronological view – or at least seriously considered – to use a more “systematic” view of the criterion – before military force is used, the purpose of the criterion being to encourage restraint in resorting to the drastic measure of using force. The paradox, however, is that when it comes to humanitarian intervention, it is often the case of “the sooner the better,” in terms of saving human lives. The main problem is that it is often difficult, or impossible, to determine what exactly *is* a feasible alternative. Much depends on opinions – whether one is optimistic or pessimistic regarding the opponent's intentions, for example. In such situations, what is worse: erring on the side of caution and pursuing a peaceful solution in vain for too long, or erring in too hastily abandoning alternatives to armed intervention? Although the last resort criterion would posit the latter, the former³⁶ can easily mean high numbers of civilian casualties that may have been prevented.

An illustrative example is in order: Sheikh Mujibur Rahman has since been blamed for holding the independence movement back following the 1970 elections when he patiently waited for Yahya Khan to fulfill his promise of convening the Constituent Assembly, despite the numerous indications that Yahya would not fulfill his word. Many argue in hindsight that Mujib displayed a “curious blindness to reality” (Mascarenhas 1971b:97) in believing that discussions with Yahya would really lead to an acceptable solution, reports all the while coming in of the military build-up in East Pakistan. The argument goes that had Mujib declared independence at an earlier date, as many of the people wanted, the ensuing inevitable conflict would have been much less bloody. However, the paradox is that had Mujib decided, prior to 25 March, to declare independence – a

³⁶ Which has arguably happened in such cases as, say, Rwanda and Sudan.

declaration that would almost certainly have led to some conflict between Bengali civilians and West Pakistani troops – he would likely have been eligible for criticism for not waiting until the use of force was the last resort. The dilemma is obvious.

Arguably, the cause for intervention could rightfully have been regarded as “just” in the present case only weeks after the military crackdown had started, once it became clear that the crackdown was going to continue and the refugee-flow had started in earnest. However, the use of force was not *the last feasible option* until late in the game. In the spirit of the last resort criterion, India can be commended for waiting with a full-scale invasion until they were attacked first. This was a show of restraint, in a situation where it was becoming increasingly obvious that a political solution, for which the Indians still formally hoped, was not going to happen. However, their choice to support the Mukti Bahini from an early stage is an indication that India picked sides quick, choosing to advocate and support military action before this necessarily was the last resort. How one chooses to determine the Indian fulfillment of the last resort criterion, then, depends largely on how one classifies Indian actions following March 1971.

The conclusion to this discussion, in my opinion, is that India could easily have been excused for invading *earlier*. It can be argued that India already did not intervene as a last resort – if one chooses to label their direct support of the Mukti Bahini as intervention. However, the dilemma presented by the last resort criterion is that, while the dangers in rashly resorting to force need no elaboration, in situations where the cause for intervention is unequivocally just, waiting till the last moment to apply military force may mean that one lets unnecessarily many people die in the interim. The discussion will be left at this point for now. But the presented dilemma means that a comparison of the two chosen cases on this criterion will be highly interesting.

4.3.5 Proportionality

Although all the chosen Just War criteria present their own judgmental difficulties, the proportionality criterion might well be one of the most difficult ones to approach. More often than not, the proportionality discussion will lead onto the path of counter-factual argumentation, a field, as mentioned, always characterized by uncertainty. Any attempt to give an adequate assessment of the extent to which an intervention created a “surplus of good over harm,” roughly speaking the purpose of the proportionality criterion, will necessarily lead to “what if” questions, and this case is no exception. What if India had not intervened? Would more people have died, or less? Were the Bengalis better or worse off as a result of Indian involvement in their struggle? These questions have been touched upon in the previous section, and the uncertainty of their answers indicated. Let us examine the case a little closer.

First of all, recall that the proportionality criterion can be said to have two potential aspects. The second aspect of the proportionality question as presented in Chapter 3 is that a military action must be a proportional response to the “crime” being punished. (Syse 2003:106-107) This aspect, in my opinion, is far less problematic to deal with than the first aspect in this case, and as such I will deal with it simply by referring to the discussion regarding just cause: the situation in 1971 – the “crime” being punished – was beyond doubt grave enough to warrant a military response. This leaves us with a need to deal with the first interpretation of the proportionality question: that the good accomplished by a military action should not be outweighed by the suffering caused by that action (ibid.).

Determining whether this is the case requires undertaking several uncertain activities: firstly, it involves comparing two fundamentally incomparable entities: “suffering caused” – most easily measured in lives lost – and “good accomplished” – in the context of humanitarian intervention equaling essentially “positive humanitarian output,” an entity measurable only in such intangibles as “lives *saved*,” or “freedom won”. Although this is a potentially difficult task, let us start by evaluating the Indian invasion of December 1971, setting “suffering caused” up against “good accomplished.” Suffering, as mentioned, is most easily measured in “lives lost,” and as such one can cite the estimated Indian death-toll for the invasion, set at 1,047 (Ayoob & Subrahmanyam 1972:240). When it comes to the “good accomplished,” this can be said to be the ending of a nine month long Pakistani military crackdown that had resulted in the death of an estimated 1.5 million Bengalis. It can easily be argued from this perspective that the good outweighs the suffering caused.

This is not, however, entirely sufficient, for determining proportionality in this sense of the term also inevitably requires an element of comparing the results of a military action with estimates of what would have happened had the action *not* taken place. The question is, basically, was intervention at the time seemingly a better option than non-intervention, given a focus on creating an optimal humanitarian situation? For if the humanitarian situation would have been better without a military action, the military action cannot truly be said to have produced a surplus of good over harm. What, then, if India had *not* intervened: would the situation for the Bengali people ultimately have been better or worse than it was after India did intervene? Continuing with an evaluation of the invasion in isolation, it can very reasonably be surmised that the pattern of killing and guerrilla warfare would have continued for a long period had it not been for the Indian invasion. Comparing this to the situation following the invasion – the immediate end of the killing and warfare – the conclusion that the Indian invasion of December 1971 created a surplus of good over bad still stands.

Not content with simply evaluating the invasion, however, let us again examine the entirety of India's involvement. The question then becomes: what if the Indians had not chosen to support the Mukti Bahini, neglecting to shelter, equip, and train them? Would the number of casualties – set at 1.5 million – have been considerably less, given that the Mukti Bahini then would have been less capable, and clashes with the Pakistani army less significant? This is hardly likely, given the extent to which the Pakistani army from 25 March on persecuted civilians, particularly Hindu civilians. It is possibly conceivable that a weaker Mukti Bahini may have encouraged a return to some sort of stability, instead of the escalation into full-scale military conflict that actually occurred, thus reducing the total number of lives lost. But this, again, is not likely. It is more likely that a weaker Mukti Bahini would have been consigned to a less successful, but no less dogged guerrilla resistance, that would more likely have prolonged the suffering of the Bengali people than cut it short. As such, then, the Indian decision to intervene in support of the Mukti Bahini, probably can be said to have produced a situation ultimately more favorable to the well-being of the Bengali people than would have been the case had they not chosen to support them. Indeed, one can possibly say that the result of the Indian intervention – the freedom of Bangladesh – was worth, in the minds of many Bengalis, practically any price. In other words, the Indian intervention – also in the expanded sense of the term – probably produced more good than harm – far more, some might even venture to say.

In conclusion, one can reasonably assume that a Bengali secessionist struggle was inevitable following two decades of exploitation culminating in a brutal military crackdown. It also seems reasonable that Indian support for the Mukti Bahini, if anything, aided that secessionist struggle in reaching its final goal quicker, and that, as such, the suffering of the Bengali people would have been prolonged had it not been for this support. It is beyond dispute, furthermore, that human suffering of a large scale was promptly ended by the Indian invasion at the loss of, comparatively at least, a negligible amount of soldiers' lives. Even allowing for considerable degrees of uncertainty in the estimates of death-tolls, it seems clear that the direct military action's negative consequences in terms of lives lost could never even get close to outweighing the good accomplished by ending the Pakistani Army's campaign of killing in East Pakistan. These factors combined, in my opinion, render the proportionality criterion fulfilled. Although the nature of the discussion is such that any answers will necessarily be “more a matter of speculation than calculation,” to recall Fixdal and Smith (1998:20), I am prone to conclude that the Indian intervention, all things considered, beyond any reasonable doubt created a “surplus of good over harm.”

The fact to note about the above treatment of the proportionality criterion is that it has to a great extent taken the shape of a retrospective analysis: it has been indicated that India *did* help to

bring about a surplus of good over harm by intervening in 1971. However, this assessment as a whole, recall, is intended as an *ad bellum* discussion. In this regard, it is necessary to determine, based on the above discussion, whether or not the Indian intervention *was always likely* to produce a balance of good over harm. In my opinion, an affirmative answer to this question seems highly reasonable, as has been partially indicated by the counter-factual argument above. A similar assessment as was made in this counter-factual argument, in light of what we now know, might reasonably have been made also at the time; the Indian decision-makers could well be excused for thinking that intervention would ultimately lead to a positive humanitarian balance. Thus, also without the direct application of hindsight, one might reasonably render the criterion fulfilled.

The *ad bellum* perspective on this issue, however, is not yet sufficiently dealt with. The proportionality discussion in essence has determined that intervention was likely to produce a surplus of good over harm; this conclusion, however, presupposes a *successful* intervention. The question that subsequently begs attention, then, is: what was the likelihood of the intervention actually being successful? This is where the final criterion, that of reasonable hope of success, enters the discussion.

4.3.6 Reasonable Hope of Success

This final “prudential” criterion, as important as it is, can in this case be dealt with quite briefly. The answer to the question of whether India, in 1971, had a reasonable hope of success when intervening in the conflict in East Pakistan, can essentially be given with reference to one factor: they had the massive support of the Bengali people, who had displayed beyond doubt their longing for independence from Pakistan. Bengali opposition to West Pakistan had been fervently demonstrated first in the 1970 elections, subsequently in the non-cooperation movement of March 1971, in the spontaneous resistance to the military crackdown starting on 25 March, and in the subsequent campaign by the Mukti Bahini. There was no doubt whatsoever that any Indian support for the Bengali movement would be received with open arms by the Bengali people. Even well before the invasion, therefore, the official Indian assessment was that “the emergence of an independent Bangla Desh appears to be inevitable in the long run” (Singh et.al. 1971:14). The independence movement seemed to have a reasonable hope of success even without Indian support – as such, any Indian action in support of the independence movement would have a reasonable prospect of succeeding.

This popular support, then, was ultimately a major factor promoting India's chances at a successful outcome when they finally embarked on their invasion in December. The Pakistani Army, as noted, was for all practical purposes “an army of occupation,” (Ayoob & Subrahmanyam

1972:139) an army of occupation that had been holding on to power only through the use of brutal tactics for 9 months, in the face of an increasingly frustrating guerrilla opposition. The initiative was with India.

In addition to the above factors, Indian troops in 1971 outnumbered the Pakistanis on the East Pakistani battlefield by two to one. There was some doubt in the run-up to the Indian invasion regarding the strength of India vis-à-vis Pakistan. A war between the two countries in 1965 had essentially ended in a stalemate, despite India's numerical superiority (Ayoob & Subrahmanyam 1972:239). Furthermore, there was doubt about whether or not China would come to the support of Pakistan, following tough Chinese rhetoric in the build-up to war. These factors notwithstanding, I believe it to be beyond doubt that the Indian Army had sufficiently good prospects for victory to render this criterion fulfilled.

Success, in a humanitarian intervention, is not simply measured in military terms; a successful humanitarian intervention requires a positive *humanitarian* outcome. As has been shown in the discussion surrounding the proportionality criterion, it became increasingly apparent in 1971 that defeating the Pakistani Army would be the *only* way to ensure a positive humanitarian outcome, and that Indian involvement could be crucial in ensuring such a defeat. As such, the prospects of an Indian involvement succeeding, both militarily and in terms of ensuring a positive humanitarian outcome, were easily good enough to ensure that this in no way could render the intervention immoral.

4.4 Tentative conclusion: a morally just intervention

The physicians of the world who want to heal the wounds of Pakistan must first cure their own ailments. They should shed their prejudices and leave us alone to overcome our problems. Now is the time for the world to accept once and for all the indivisibility of Pakistan.(Bhutto 1971:89)

This appeal by Zulfikar Ali Bhutto to the principle of non-intervention may seem reasonable at first. Perhaps where it ultimately falters, however, is in the fact that the “wounds of Pakistan” in 1971 were self-inflicted, and of an extent far larger than any of the “ailments” being faced by any of the other “physicians of the world.” Thus, following the above moral assessment, I see no reason to go against the opinion previously upheld by Just War thinkers such as Walzer and Wheeler – that India's intervention in East Pakistan in 1971 was morally just, in spite of its illegality, its extent, and the lack of international support it enjoyed at the time.

This is not to say, however, that India passed all the Just War criteria with flying colors. Although the cause was determined to be just beyond serious reproach, intentions were questionable. It is not far-fetched to imagine that India perceived this to be a perfect “opportunity,”

using the “moral cover” of the humanitarian situation, to weaken its arch-enemy. The intervention was technically illegal and opposed by a majority of the world's states – although I ultimately concluded that this did not render the Indian authority “illegitimate,” in part as a result of the justness of the cause, and mainly because of the unambiguous support for intervention from the oppressed people themselves. India can be accused of “picking sides” already from the outset, and as such the intervention in favor of the Bengalis can be viewed as a “grabbed opportunity” rather than a “last resort.” This being said, full-scale military support in the form of a conclusive invasion only followed pre-emptive Pakistani airstrikes on Indian territory, an indication of restraint from the Indian side. When it comes to the criteria of proportionality and reasonable hope of success, I found these criteria to have been unequivocally met.

This tentative conclusion in mind, I will now proceed with assessing the second case: India in Sri Lanka, 1987-1990.

5. India in Sri Lanka, 1987-1990: “India's Vietnam?”³⁷

16 years after the Indian Army had successfully ousted the Pakistani Army from East Pakistan to allow the emergence of the state of Bangladesh, Indian troops would again be sent to a neighboring country for the professed sake of resolving a civil war and improving the situation for that country's citizens. The country, this time, was Sri Lanka, and the forces, this time, were sent by Prime Minister Rajiv Gandhi, son of Indira Gandhi who had been assassinated in 1984 by Sikh extremists. As will become clear, several empirical similarities can be pointed out between the two cases. However, the two interventions were also fundamentally different, both in objective and, importantly, in outcome. The Indian troops arriving in Sri Lanka in 1987 were formally a part of an “Indian Peacekeeping Force,” whose professed intention was initially to maintain security to encourage a political compromise between the warring parties, rather than give decisive support to one side as they had done in Bangladesh. Nonetheless, they soon became embroiled in all-out conflict with the LTTE – the main force in the secessionist movement fighting against the Sri Lankan government. The Indian troops, however, were not capable of delivering a decisive blow to the LTTE once fighting had begun. After more than two years of fighting in northern Sri Lanka, the Indian Army had lost more lives in Sri Lanka than they had lost in the invasion of Bangladesh. Moreover, peace had not been restored, and the LTTE continued to operate. The Indian Army, this time, was not being hailed as hero or liberator by any of the sides. They pulled out in 1990 to conclude a largely unpopular and unsuccessful intervention. Following the Indian pullout, the Tigers quickly recaptured much of the territory that they had controlled prior to the intervention, and the Sri Lankan civil war resumed with increased intensity. It is not hard to see the parallels to the American experience in Vietnam, and the label of “India's Vietnam,” inevitably applied by various media, certainly at first sight seems a relatively apt description of the way events transpired.

As indicated in the introduction, several factors make a moral assessment of this intervention interesting. Indeed, the very fact that this case is not often discussed in the perspective of humanitarian intervention or assessed in light of the Just War Tradition³⁸ makes an examination of the case in this perspective interesting. Furthermore, disregarding its lack of success, the force was, as its title indicates, sent with the intention of ending the suffering of the population of northern Sri Lanka that was resulting from the war between the Sri Lankan government and the

³⁷ Some aspects of this chapter are based on an earlier paper by this author, “The Indian Intervention in Sri Lanka's Civil War 1987-1990” (2007).

³⁸ I have come across no such evaluations during my research. Although this certainly does not preclude their existence, one may safely conclude that the case doesn't feature in most mainstream literature on the Just War Tradition or humanitarian intervention.

Tamil secessionist rebels, a war that was steadily increasing in its intensity and casualty-toll. The immediate build-up to the intervention (a term that I will later justify using) had seen India get irrevocably involved in the conflict as a result of their forcible provision of humanitarian aid to the Tamils of Jaffna in Sri Lanka. The Peacekeeping Force itself was sent on the authority of a treaty signed between the Indian and Sri Lankan governments. Such observations in mind, it is easy to envision that this could be considered a morally just humanitarian intervention despite its failure – a possibility that deserves a thorough investigation. Regardless of the outcome of this assessment, furthermore, a comparison of this case and the former case in the light of Just War thinking and the question of humanitarian intervention will be illuminating to the question of what factors are most important in determining the moral status of humanitarian interventions.

As in the previous chapter, the necessary empirical background must first be presented. To this effect, the chapter will begin with a short introduction to the origins of the current ethnic conflict in Sri Lanka. This will be followed by a description of the evolution of India's involvement in this conflict, culminating in the unsuccessful intervention of 1987-1990, before this intervention is assessed using the Just War framework.

5.1 Background: Origins and escalation of the Sri Lankan ethnic conflict

The current ethnic conflict in Sri Lanka, as is typical of most ethnic conflicts worldwide, is as much a product of manipulative politics as it is a result of legitimate historical grievances. Particularly, it is the forceful resolution of certain existing historical grievances in favor of the majority ethnic group – the Sinhalese, who according to the 2001 census make up approximately 80% of the population, the main minority being the Tamils who make up around 9.4% (Department of Census and Statistics 2001a) – that in large part has led to the escalating level of ethnic animosity on the island. As in so many other countries, colonial rule had put a lid on local ethnic rivalries, while simultaneously affecting major changes in the structure of Sri Lankan society. As a result, previously latent issues of contention between the Tamils and the Sinhalese would become highly potent following independence in 1948, which followed roughly 450 years of colonial rule by Portugal, the Netherlands, and finally Great Britain.

British rule, from around 1800, had a particularly great impact on Sri Lankan society. In brief, the main contributions of British rule vis-à-vis the current ethnic conflict were the unification of Sri Lanka into a single polity, the introduction of the English language as the language of administration, and the introduction of a majoritarian democratic system.³⁹ The unification of Sri

³⁹ In addition one might mention the British construction of a plantation economy in Sri Lanka, which led to an “import” of a substantial amount of Tamil laborers from Southern India in the latter half of the 19th century. This group would subsequently be known as the “Indian Tamils”, and lived largely separately from the rest of the

Lanka into a single polity encouraged a degree of intermingling between the ethnic groups that formerly had been relatively segregated in the three Kingdoms of Sri Lanka – the Tamil Kingdom of Jaffna in the North, and the Sinhalese-dominated kingdoms of Kandy at the center and Kotte in the South (Ganguly 1998:195). This would interact with the introduction of the English language to encourage developments of a socio-economic nature that would be highly significant following independence. Specifically, English was learned by a relatively higher proportion of the Sri Lankan Tamil minority than was the case in the Sinhalese majority. As English was made the language of official administration, Tamils resultantly obtained a relatively favorable status in the public sector's “white collar” jobs. These white-collar jobs are in Sri Lanka accorded “a marked, even excessive value,” (Tambiah 1986:74) and as such Tamil dominance in this sector was not well regarded by the Sinhalese who made up roughly three quarters of the Sri Lankan population.

Following independence, Sri Lanka adopted a majoritarian democratic system in the British tradition. This system ensured that Sinhalese politicians, owing to the large percentage of Sinhalese in most electoral provinces, were well served by mobilizing around ethnic lines. As a result, governments were Sinhalese-dominated from the beginning. Subsequent Sinhalese-dominated governments started responding to popular claims that the Tamils were unfairly privileged in prestigious sectors by enacting discriminatory policies aimed at “correcting” this disproportional representation. In their discriminatory policies the governments were backed by Sinhalese fundamentalist claims that the Buddhist Sinhalese people were the legitimate “original inhabitants” of the island of Sri Lanka – a claim disputed by the Tamils, who regarded northern and eastern Sri Lanka as their traditional homelands. Nonetheless, the Tamils, with reference to classical Buddhist writings, were portrayed by many Sinhalese Buddhist clergymen as “invaders,” who had previously pushed the Sinhalese out of the areas of northern and eastern Sri Lanka, and who were now enjoying an unjustly favorable status in prestigious sectors of the society (Ganguly 1998:196).

Important policies that can be mentioned are the “Sinhala Only Act” of 1956, the 1970 university admissions reform, and the government's colonization scheme in Tamil-dominated areas in eastern and northern Sri Lanka. The former two policies were aimed at putting the Tamils at a disadvantage in the pursuit of the mentioned prestigious jobs in the public administration, and they achieved their desired effect, Tamil dominance in the white-collar jobs ending and indeed being directly reversed by the 1980's (Tambiah 1986:78-79). In addition, the symbolic effect of the “Sinhala Only Act” failing to recognize Tamil as an official language must not be underestimated⁴⁰.

population (Tambiah 1986:66). Following independence they were denied citizenship by the government and as such rendered stateless. They now make up around 5 % of the total population (Singh 2001:11).

⁴⁰ One may usefully note the parallel, here, to the Bangladesh case, where Bengali was originally denied status as an official language in the unified Pakistan. In both cases, then, language politics was an important underlying factor

The government's colonization scheme was aimed at increasing Sinhalese presence in Tamil-dominated areas and providing Sinhalese settlers with economic opportunities by “reclaiming” previously uninhabited land. Again, the symbolic value of the scheme was as important as any real effects, as the Tamils, in the increasingly polarized light following independence, saw the colonization scheme as a Sinhalese “take-over” of what they regarded as their traditional homelands. All these and other policies served to somewhat appease Sinhalese sentiment, in a post-colonial society increasingly frustrated by high unemployment and few opportunities in an economy that started slowing significantly by the 1970's (Tambiah 1986:55-57). They simultaneously served to degrade the Tamils of Sri Lanka to a virtual “second-class citizen” status.

The result of these developments was an increased degree of ethnic polarization in Sri Lanka, and ethnic rioting of steadily growing proportions. This, in turn, sparked the gradual emergence of a militant Tamil movement, traceable to the early 1970's. The group that was eventually to become the most powerful of these – in part because of its ruthlessness – was the group called the “Liberation Tigers of Tamil Eelam” (“Eelam” being the Tamil word for “homeland”), led by the notorious Vellupullai Prabhakaran. The LTTE, or the “Tamil Tigers,” performed their first political killing in 1974, when they assassinated the former mayor of Jaffna. Their militancy would steadily grow in its intensity. Matters would come to a head when an attack by the Tigers in 1983, killing 13 government soldiers, sparked massive anti-Tamil riots across the entire country. Although ethnic riots of a significant scale as mentioned had been increasingly common occurrences before 1983, the *nature* of the riots in 1983 – particularly the degree of organization exhibited from both sides – marked a decisive shift in the character of the ethnic conflict. The riots, in some areas, took on a form reminiscent of “ethnic cleansing,” organized bands forcibly expelling members of the rival ethnic group from their homes in large numbers (Tambiah 1986:19-33). In the aftermath of the riots, the LTTE further stepped up its attacks on government troops, and the government responded in increasingly harsh terms (Ganguly 1998:202). This is generally acknowledged as the point where ethnic conflict turned to civil war in Sri Lanka – a civil war that India would be involved in from the very beginning until their unsuccessful intervention ended in 1990.

Before we proceed to describe the Indian role in the conflict, a note should be made at this point about the LTTE's notoriety. The brutality of the Tigers must not be forgotten, and can hardly, from a moral point of view, inspired by human rights or the Just War Tradition, be justified by any number of unjust government policies. In addition to their often indiscriminate brutality against Sinhalese civilians, their frequent use of suicide bombers and allegedly also child soldiers

influencing the ensuing conflict, proving the potential impact that such heavily symbolic issues can have.

(University Teachers for Human Rights (Jaffna) 1995), the LTTE are famous for their violent elimination of rival Tamil militant groups, a factor to a large extent responsible for their increasingly dominant role in the Tamil movement (Jayatilleka 2000). The LTTE has been labelled a terrorist organization by around 30 countries, including the US and the EU. This point, although not necessarily meaning that the LTTE were always on the wrong side of all arguments, must not be forgotten in the ensuing discussions.

5.2 Indian involvement

5.2.1 History of Indian sympathy

As was the case in the Bangladesh crisis, India was sympathetic to the secessionist forces from the outset of the civil war. This is largely a result of ethnic kinship; as has been noted above, the Tamils in Sri Lanka (both “Sri Lankan Tamils” and “Indian Tamils”) have roots in southern India. Indeed, India as a whole is estimated to have approximately 60 million Tamil residents (Census India 2001), most of whom reside in the southern Indian state of Tamil Nadu – separated from Sri Lanka by only 60 kilometers of water. Furthermore, the Tamils in Sri Lanka are predominantly Hindu, like the majority of India's population, and the Sinhalese in Sri Lanka predominantly Buddhist. As such there is an aspect of religious sympathy for the Tamil struggle also in India's wider, non-Tamil population. Indian sympathy and support for the Tamil struggle in Sri Lanka is thus by no means surprising.

As ethnic tensions in Sri Lanka intensified and Tamil groups commenced their armed struggle, Tamil militants were from the outset given substantial support for their cause from Southern India. Vital for the Tamil struggle was the establishment of Tamil militant camps on Indian territory where the rebels were given a safe haven for restitution, planning, and training. It is something of an “open secret” that these training camps were directly supported by various Indian government agencies, both at the local and central levels. Specifically, it is widely held that the “Research and Analysis Wing” (RAW), an Indian government intelligence agency, provided the Tamil rebel groups with intelligence and logistical support (Ghosh 1999:74, Singh 2001:16). Other sources expand the claim, indicating extensive RAW training of the Tamil groups in such areas as “field craft, tactics, map reading, jungle and guerrilla warfare, weapons systems such as light and medium machine guns, automatic rifles, pistols, and rocket propelled grenades,” further positing that also regular Indian Army personnel participated in the training programs, providing “instructions in the use of bombs, the laying of mines, and the establishment of telecommunications” (Ganguly 1998:213).

Claims of direct Army support, it must be said, are more disputed – although it should be noted that the previous quote comes from an Indian author – and are refuted by Army leaders (Singh 2001:16). Nonetheless, it is beyond dispute that the Tamil insurgency groups, the LTTE being the most important among them, were given sanctuary, support, and even a substantial amount of recruits (ibid.:21) from southern India, with at the very least the tacit acceptance of the Indian government, and at the most substantial aid and support. Indeed, particularly the local government of the state of Tamil Nadu is acknowledged to have supported the LTTE quite openly, allowing them to set up administrative and representative functions in the city of Madras and even supporting them financially – at one particularly crucial point donating 3.2 million US\$ to the LTTE and their allies in a much publicized move (De Silva 2000:53). The sum of the different aspects of Indian support was a major factor allowing the LTTE to expand their military struggle in Sri Lanka. As Lt. Gen. Depinder Singh – the Overall Force Commander of the IPKF until 1988 – notes, “there can be no denying the fact that the main motivating factor that kept the LTTE going was the knowledge that moral, financial and material assistance from Tamil Nadu would always be forthcoming” (Singh 2001:17).

Simultaneously with the covert support being given to the LTTE and the other militant groups, India, particularly from 1983 onwards, took an active diplomatic approach to the ethnic conflict, attempting (largely unsuccessfully) on several occasions to mediate a political settlement that would allow substantial Tamil autonomy in the framework of a united Sri Lanka. A pro-Tamil bias was always evident in the Indian line, a result, if nothing else, of the central government's need for electoral support from the large Tamil population in southern India and the need to discourage disorder in the southernmost state of Tamil Nadu. Although a certain shift in policy – in the direction of greater neutrality – can be traced following Indira Gandhi's assassination and the subsequent take-over of Rajiv Gandhi (Ghosh 1999:87), the escalatory developments in 1987 would clearly indicate that the pro-Tamil bias was maintained.

5.2.2 1987: Escalation and intervention

Much of the conflict in Sri Lanka has been focused around the strategic peninsula of Jaffna on the northernmost tip of Sri Lanka, control over Jaffna City being an important strategic and symbolic objective for both sides. The Jaffna district has traditionally been populated largely by Tamils, the official population estimate put at roughly 740,000 in 1981 and around 490,000 by 2001 (Department of Census and Statistics 2001b). In 1987, this was again to be the focal point of the military struggle. The area at the time was a LTTE stronghold, with the Tigers in military control and in practice running all civilian administration in the area. In January, subsequently, the Sri

Lankan government commenced an extensive blockade of the peninsula, in order to weaken the Tiger forces controlling the area. The blockade resulted in suffering for the largely Tamil population of Jaffna, as supplies of fuel, food, and medicines ran low, a situation that was further aggravated when the Sri Lankan Army launched a major operation in May 1987 named “Operation Liberation,” that sought to decisively expel the LTTE from the peninsula. Heavy government shelling during the operation led to extensive human casualties and material damage in Jaffna City, further increasing the suffering of the civilian population who were caught in the cross-fire.

The deteriorating humanitarian situation triggered widespread condemnation from the Tamil population of southern India. Tamil Nadu's Chief Minister labeled the Sri Lankan offensive “inhuman, uncivilized” and “a serious violation of fundamental human rights” in a letter to Prime Minister Rajiv Gandhi (Ghosh 1999:88). In response to the outcry of the South Indian Tamils, the Indian government decided to send humanitarian aid to the besieged people of Jaffna. On 3 June a flotilla of over 20 Indian ships was sent towards Jaffna with essential supplies, contrary to the terms of the Sri Lankan blockade. The flotilla, however, was intercepted and turned back by the Sri Lankan Navy. This prompted the Indian government, in a forceful move, to air-drop 20 tons of supplies to Jaffna the following day, sending cargo planes under escort of fighter jets into Sri Lankan airspace.

The Indian air-drop was a clear show of Indian force and an infringement on the sovereignty of Sri Lanka. It was also an action clearly against the expressed will of the Sri Lankan government. As such, it was an indication of the pro-Tamil Indian stance and the extent to which India was willing to go in support of the Tamil cause. The Sri Lankan government protested at the “naked violation of Sri Lankan air-space,” (Ghosh 1999:79) but Jayawardene was now faced with a very pressured situation. Coupled with the seeming willingness of the Indian government to intervene, even using military force, in defense of the Tamil population of Jaffna, the Sri Lankan government was faced with the growing problem of a radical Sinhalese movement called the JVP, which was performing increasingly brutal acts of terrorism against the government in the South of the country (Pfaffenberger 1988). The movement was gathering pace as the Sri Lankan Army was held up in the North fighting the Tigers and thus couldn't be used in a clampdown in the South. The sum of these factors prompted the Sri Lankan government to seek negotiations with India. The Sri Lankan Army's offensive was halted, and subsequent talks led to the Indo-Sri Lanka Agreement⁴¹ of 29 July 1987, the treaty that provided the mandate for the Indian force that soon after was sent to Sri Lanka.

The Agreement is a vital document in an analysis of the Indian intervention, as it says much about both the military force's initial mandate and its background. Particularly, the circumstances

⁴¹ Also known as the Indo-Sri Lanka Accord

surrounding the Agreement can serve as important indications of the Indian intentions in getting involved in the conflict to the extent and in the way that they did. As such, these warrant description at present.

Following the escalation into civil war in 1983, the Sri Lankan government had sought foreign assistance to build up its army. This assistance had subsequently come largely from the USA, Israel, and Pakistan – all countries with which India had less than favorable relations, recalling the Cold War constellation presented in the previous chapter. To compound the worry that this caused in India, Sri Lanka leased an oil storage facility outside the strategic port of Trincomalee in eastern Sri Lanka to a US company, rejecting an Indian bid for the contract (Ghosh 1999:53). Furthermore, the US had been allowed to set up a radio station for the channel “Voice of America,” also in Trincomalee. In Indian sentiment, these developments represented a military infringement in Sri Lanka, as they feared that the radio station could be used for military purposes, and that the oil tank contract was the first step in the direction of a permanent US Navy presence in Trincomalee (ibid.).

It must be kept in mind that Sri Lanka, located as it is at the southern tip of India, occupies a very strategic point in the Indian Ocean, at least as far as India is concerned. Furthermore, India had since the time of Indira Gandhi been a fervent advocate of non-intervention of foreign powers in South Asia, an integral part of the Indian strategic doctrine (sometimes referred to as the Indian version of the “Monroe Doctrine”, or the “Indira Doctrine”) (Hagerty 1991: 351-353). As such, India was highly apprehensive about the friendly relations developing between the US and Sri Lanka. It was thus considered a vital strategic concern in Indian circles that the US or other “unfriendly” powers were not allowed to operate militarily from Sri Lankan territory.

It seems likely, then, that geo-strategic concerns played an important role in prompting India to take an active role to end the Sri Lankan conflict, which was nourishing US-Sri Lankan military cooperation. Indications that such concerns were on India's mind in 1983 are given by the exchange of letters between the heads of state of India and Sri Lanka immediately preceding the signing of the Agreement. In these letters, signed by Prime Minister Gandhi and President Jayewardene, the countries agreed among other things that Sri Lanka would ensure that Trincomalee and other ports were not made available for military use by “any country prejudicial to India's interests,” that “the work of restoring and operating the Trincomalee oil tank farms will be undertaken as a joint venture between India and Sri Lanka,” and that “Sri Lanka's agreement with foreign broadcasting organizations will be reviewed to ensure that any facilities set up by them in Sri Lanka are used solely as public broadcasting facilities and not for any military or intelligence purposes” (Ghosh 1999 Appendix I: 181). Sri Lanka further agreed to “come to an understanding” with India over the

use of foreign military personnel in Sri Lanka, to ensure that this would not “prejudice Indo-Sri Lankan relations” (ibid.). In return, India would “deport all Sri Lankan citizens who are found to be engaging in terrorist activities or advocating separatism or secessionism,” and “provide training facilities and military supplies for Sri Lankan security forces” (ibid.). The exchange of letters, then, which was the prelude to the Agreement calling for the mobilization of the IPKF, proved that strategic considerations of no necessary relevance to the Sinhalese-Tamil conflict in Sri Lanka or the well-being of the Tamil people were on the mind of the Indian authorities when they chose to take a more active role in the conflict. This is not to say, of course, that these were the prime considerations; but this will be dealt with later, during the moral assessment.

The treaty itself, fully titled “The Indo-Sri Lanka Agreement to Establish Peace and Normalcy in Sri Lanka,” dealt more directly with the ethnic conflict in Sri Lanka. In it, significant concessions were given to the Tamils. Firstly, the areas that the Tamils considered their homeland in the north and east of Sri Lanka would be united into a single province with a single provincial administration that would be given a certain amount of autonomy. Furthermore, Tamil was accorded the status of official language.⁴² The Sri Lankan Army, moreover, would return to barracks, and the Tamil rebels would disarm. India would halt all support for the secessionist forces, and “underwrite and guarantee the resolutions” of the Agreement (ibid.).

Importantly, India was given a largely undefined mandate for the provision of military support to the Sri Lankan government in two clauses. Firstly, in clause 2.16(c): “In the event that the Government of Sri Lanka requests the Government of India to afford military assistance to implement these proposals the Government of India will co-operate by giving to the Government of Sri Lanka such military assistance as and when requested” (ibid.:180). Furthermore, in the annexure to the agreement: “The Prime Minister of India and the President of Sri Lanka also agree that... an Indian Peacekeeping contingent may be invited by the President of Sri Lanka to guarantee and enforce the cessation of hostilities, if so required” (ibid.). This was the extent of the guidelines put down in the Indo-Sri Lanka Agreement regarding the use of Indian force in Sri Lanka. On this mandate, Indian troops were formally invited to Sri Lanka to oversee the implementation of the peace accord. They arrived shortly after the signing of the treaty.

5.2.3 The IPKF: from peacekeeping to war to withdrawal

The first forces of the IPKF arrived in Sri Lanka on 30 July 1987. Initially numbering only around 5-7,000, the IPKF would allegedly grow to a force of an estimated 100,000 at its peak, a

⁴² Albeit in a somewhat ambiguous way, the text reading that “[t]he official language of Sri Lanka shall be Sinhala. Tamil and English will also be official languages” (Ghosh 1999 Appendix I:179).

force more than half the size of the Soviet force in Afghanistan at the time (De Silva 2000:66). Having initially arrived with the expectation that they would largely be spectators to an imposition of “peace and normalcy” in Sri Lanka and responsible for overseeing the handover of Tamil militants' weapons, the IPKF would by the end be fighting in a bitter guerrilla war with the LTTE. This transformation, although drastic, was not a long time coming.

It quickly became clear that the Tamils, and the LTTE in particular, would not accept the terms of the Agreement. Importantly, the LTTE had not been a direct party to the discussions leading up to the formulation of the treaty – it was an agreement between the heads of state of Sri Lanka and India, not directly including any other party. Furthermore, the LTTE soon rejected the Agreement for several substantial reasons. In addition to specific complaints regarding practical issues pertaining to the merging of the northern and eastern provinces, the Tigers were fundamentally opposed to the notion of disarming, a central requirement of the treaty (Ghosh 1999:84). Moreover, they opposed the fact that the Tamils were not referred to as a “separate nation,” but merely as an “ethnic minority” (ibid.). The LTTE, thus, did not comply with the treaty, and did not surrender their arms as the treaty required them to (despite some initial symbolic gestures). This was to put the essentially undermanned and unprepared IPKF in a difficult situation, as matters started to escalate rapidly.

In protest against what he perceived as an unjust treaty, an LTTE propaganda chief named Thileepan went on a hunger strike in September 1987, setting several demands to India that were never met. He eventually fasted to death, an event that caused an “immeasurable” deterioration in Indo-Sri Lankan Tamil relations (Singh 2001:72). In an increasingly charged atmosphere, the decisive development subsequently came in October, when the Sri Lankan Navy captured 17 LTTE fighters who were armed and thus in violation of the peace accord. Importantly, several of the prisoners had been wanted for earlier killings⁴³ of Sinhalese civilians. The Indo-Sri Lanka Agreement guaranteed an amnesty for all Tamil fighters, and as such the LTTE soldiers should have been handed over to the IPKF for disarmament and release. However, in light of the prisoners' known involvement in acts preceding the Agreement, the Sri Lankan authorities refused to turn the prisoners over to the IPKF, as they wanted them to stand trial in Colombo. When it became clear that they were not going to be given amnesty, the Tamil fighters all attempted suicide by swallowing cyanide capsules – something that all members of the LTTE carry around their neck at all times. 12 of the Tigers died, among them several high-ranking LTTE officers.

⁴³ Specifically, several of the prisoners were known accomplices to a “bus massacre” in April 1987, where the Tigers had stopped a randomly passing bus, separated out the Sinhalese civilians, and killed them on the spot (Singh 2001:72).

The LTTE response to this episode, as Lt. General Depinder Singh (2001:74) recalls, “was swift and savage.” The LTTE responded by killing Sinhala prisoners, massacring Sinhalese civilians, and forcing 10,000 Sinhalese citizens to flee their homes (ibid.). The IPKF, in light of its role as “peacekeeper,” was under great pressure from the Sri Lankan government to take steps to restore order. Furthermore, it was becoming clear that the LTTE were not going to adhere to the terms of the Agreement, and they had violated it in increasingly blatant and provocative ways. On 7 October, as a result, the IPKF received orders to use force against the LTTE – only around four months after the signing of the peace treaty. By 11 October, the IPKF troops were engaged in a major offensive to oust the LTTE from Jaffna – precisely what the Indian intervention had initially aimed to stop.

Jaffna fell to the Indian troops in a matter of 10 days. What was to follow, however, was a drawn-out, frustrating, and difficult guerrilla war with the LTTE. The Tigers dissolved into the jungles of eastern Sri Lanka and settled into a classical pattern of insurgency. The IPKF, on their side, pressed on to attempt to decisively defeat the LTTE. This, however, was an extremely hard objective; the Tigers often blended in with the civilian population, frequently using them as human shields (Singh 2001:104). This obviously made them extremely difficult targets, particularly as the IPKF's mandate rested on support for the civilian population and their strategy required the proverbial “hearts and minds” approach. To this effect, the IPKF operated under self-imposed restrictions aimed at minimizing the number of civilian casualties. Specifically, artillery cover could only be applied on “identified targets,” or targets from which Indian forces had been fired upon (ibid.:93). This further impaired the IPKF's fighting capacity.

As their campaign grew more frustrated, the IPKF grew increasingly unpopular both at home and in Sri Lanka. It should be noted that the IPKF had been relatively unpopular in Sri Lanka with both Tamils and Sinhalese from the very outset. Many Tamils felt that the treaty disregarded some of their major demands, while many Sinhalese saw the treaty as being far too generous to the Tamil cause. Rajiv Gandhi himself was to experience the Sinhalese discontent on a very personal level; when inspecting a Sri Lankan honor guard in Colombo shortly after signing the Agreement, a Sinhalese officer standing guard swung at Gandhi with his rifle as he walked past and struck him hard on the shoulder, in a much-publicized act of protest. Also Tamil discontent was to tragically affect Rajiv Gandhi. In 1991, after having been replaced as Prime Minister, Rajiv was assassinated by members of the LTTE back home in India.

The unpopular intervention, then, grew increasingly so also in India as fighting wore on and the LTTE persisted. Matters would come to a head when elections were held in both Sri Lanka and India, and both Jayewardene and Rajiv Gandhi were replaced as heads of state over the course of

1989. Jayewardene in Sri Lanka was replaced as President by Ranasinghe Premadasa, who had been explicitly opposed to Indian intervention from the start and whose election platform had included a vow to expel the Indian forces. Following his election victory, the LTTE even agreed to hold talks with the government – in essence the two arch-enemies had by 1989 become united against a common enemy in the IPKF⁴⁴ (De Silva 2000: 64). An agreement to end the Indian Peacekeeping Force's presence was signed between Premadasa and a pressured Rajiv Gandhi right before he was replaced as Prime Minister by V.P. Singh, who had vied for complete IPKF withdrawal. By 28 March 1990, the last of the Indian troops returned home. As one contemporary article pointed out: “not a single civilian showed up to bid them goodbye. If the locals had anything to say to the “peace-keepers,” whose presence brought not peace but one of the bloodiest chapters in Sri Lanka's already violent history, it was more like good riddance” (Beyer 1990).

The pullout ended what by many, as mentioned, has been termed “the rough equivalent of America's debacle in Viet Nam” (ibid.). The total Indian death-toll is commonly estimated at around 1,200, with three or four times as many injured (Singh 2001:188). The civilian death-toll was higher, by some estimates 6,000 (Beyer 1990). Estimates of the number of LTTE soldiers killed range from around 800 (ibid.) to around 1,500 (Ghosh 1999:145). Importantly, the IPKF pullout quickly led to a return to LTTE control over Jaffna and the northern areas, and a resumption of all-out hostilities between the LTTE and the Sri Lankan Army. Summing up the aftermath of the intervention is Ganguly (1998:217):

The intensity of the ethnic conflict in Sri Lanka reached alarming proportions after the Indian pull-out in 1990. One got the impression that neither the Sri Lankan government nor the LTTE believed in a political solution to the ethnic conflict. The actions of both sides indicated that their respective positions had hardened to the point that they believed only an all-out military showdown could break the deadlock. The outcome of such a development has been disastrous for Sri Lanka.

The intervention, then, seemingly served to harden attitudes rather than encourage a political solution. Unlike in Bangladesh, the intervention was neither popular nor successful. Does this, however, imply that the intervention was immoral? This is the question we will now approach.

5.3 Analysis: a moral assessment of the intervention

As in the previous chapter, some conceptual issues need clarification before the moral assessment can begin. Initially, it is important to justify the use of the somewhat unorthodox label of “humanitarian intervention” on the present case. For it can easily be argued that this is a somewhat misleading label on what was explicitly called a “peacekeeping operation,” and is usually

⁴⁴ This, in turn, allowed the Sri Lankan army to focus on defeating the Sinhalese radicals, the JVP, who had been pursuing a campaign of political terrorism with increasing intensity since prior to the IPKF's arrival. Thus, the IPKF presence, though unpopular, “was not without its advantages to the Sri Lanka government” (De Silva 2000:65).

referred to in such terms – this is, after all, a label that implies a greater degree of neutrality than is invoked by the term “intervention.” In order to justify the use of the humanitarian intervention label, then, it is necessary again to return to the originally chosen definition of this term: “coercive interference in the internal affairs of a state, involving the use of armed force, with the purposes of addressing massive human rights violations or preventing widespread human suffering” (Welsh 2004:3). The prospect of “coercive interference” does not intuitively seem compatible with the notion of “a peacekeeping force” – the latter usually invoking images of reconciliation rather than coercion. The question at hand, then, is whether or not humanitarian intervention is a more suitable label on the events described above – or at least sufficiently suitable so as to render an analysis of the described events in light of such a term relevant. To determine whether this is the case, one must deal with several separate questions springing from the proposed definition: was the Indian involvement coercive in nature? Did it involve the use of armed force? Were the issues being addressed Sri Lanka's “internal affairs?” And finally, was the Indian involvement aimed at “preventing widespread human suffering?”

Regarding the first question, I will argue that this is the case: India's actions in 1987 can in my opinion without much doubt be called coercive interference. This conclusion is supported by the Sri Lankan government's initial opposition to the Indian involvement, and the fact that the Indian interference eventually pressured the Sri Lankan government into changing its course of action in 1987. The Sri Lankan government was intent on decisively defeating the LTTE in 1987, and had enforced a blockade and commenced a military offensive to that effect. Initial Indian attempts at involvement – in the form of the provision of aid to Jaffna – were rejected by the Sri Lankan government. Subsequently, with the use of military force – to cover the second question – the Indians pressed forward with their course of action, contrary to the wishes of the Sri Lankan government, and with a view to persuading the Sri Lankan government to change its course of action – something that they did when Jayewardene was persuaded to halt the military offensive and instead pursue a negotiated settlement. Finally, although the LTTE had close ties in southern India and partially operated out of Indian territory, it is still hard to call the Sri Lankan civil war anything other than an “internal affair” of Sri Lanka. Thus, the Indian involvement can easily be portrayed as “coercive interference in the internal affairs of a state, involving the use of military force.”

When it comes to the final part of the question – whether or not the Indian interference had a humanitarian aim – much of this will be dealt with in the discussion around the criterion of “right intentions” to be presented below. For now, suffice it to say that the entire premise for the Indian shipments of aid to Jaffna in 1987 – the “interference” that forced a change in the Sri Lankan government's policy – was humanitarian suffering among the civilian population of the city.

Furthermore, it can be noted that even in the names conferred upon the Indo-Sri Lanka Agreement that followed (“... to establish peace and normalcy in Sri Lanka”) and the ensuing Indian armed force (“Peacekeeping Force”) there were implicit references to the fact that these were intended “purely” for the good of the Sri Lankan people. As such, in sum, I see no problems with analyzing the actions of India in Sri Lanka in 1987 in light of the humanitarian intervention discussion, despite the fact that the intervention is not customarily referred to in such terms.

Definitional issues clarified, then, it is necessary, again like in the previous chapter, to determine what should rightly constitute the conceptual starting-point of the intervention. To this effect, it must first be noted that, much like in the previous case, we are faced with a situation where India had been covertly involved in support of the secessionist forces prior to direct military intervention. In the previous chapter, such covert support was deemed to be of such an extent and significance that it warranted the label of intervention on its own. With this in mind, what is a reasonable date to use as “the starting point” of the Indian intervention in Sri Lanka?

There are definitely clear parallels between the support given to the Mukti Bahini in 1971 and the support given to the LTTE and other Tamil groups over the course of the 70's and 80's. However, there is also a clearly discernible difference in character between the two instances of support. The support in 1971 was extensive, soon openly admitted, and explicitly aimed at helping the Bangladeshi people to achieve their objective. The support in the Sri Lankan case was to a greater extent characterized by “turning a blind eye” on the militant activities on Indian territory and quietly lending the occasional helping hand. Furthermore, India never advocated the creation of an independent Tamil state in Sri Lanka – as this would likely have encouraged secessionist cries in Tamil Nadu and other areas of India. It may seem that the Indian support for the Tamil militants to a great extent was a way to appease Tamil sentiment in the populous state of Tamil Nadu (as will be dealt with in the ensuing discussion); it was certainly contrary to the interests of the Indian government for the LTTE to achieve their final goal. In short, Indian support in the latter case did not represent “coercive influence” in the same way as in the former case.

Furthermore, while in the Bangladesh case the Indians were increasingly involved with the use of their own forces in direct cooperation with the secessionist forces, this was not the case in Sri Lanka. The Indian assistance to the Mukti Bahini occurred over a relatively short period of time, during which it gradually escalated until it reached a point where the Indians were irrevocably involved in the conflict themselves. The situation in 1971 had escalated into a virtual state of war between India and Pakistan prior to the actual Indian invasion, *as a result of* the Indian involvement with the Mukti Bahini. No such development is traceable in the Sri Lankan case. The Indian support to the Tamil secessionists was given over a longer period of time, but never reached a point where

Indian Army units were fighting alongside the militants or providing them with, for example, artillery support. India got irrevocably involved in the conflict only after later decisions. As such, I would conclude that labeling the Indian support for the Tamil secessionists as “intervention” would be misleading, while maintaining that this label is justified for Indian support for the Mukti Bahini in the latter stages of the 1971 crisis. That being settled, when can one perceive of the Indian involvement in the conflict assuming the character of intervention?

Again, it is necessary to return to the chosen definition. With this definition in mind, I would posit that the real point of intervention can most rightly be regarded as being the point of the forcible provision of humanitarian aid which resulted in the ensuing Indo-Sri Lanka Agreement. Particularly the unlicensed airdrop involving the use of military aircraft clearly represented “coercive interference in the internal affairs of a state, involving the use of armed force.” The sending of aid in this way was directly contrary to the objectives of the Sri Lankan government. The action brought the Sri Lankan Army offensive to a halt, which was also clearly against the initial wishes of the Sri Lankan government – President Jayewardene had previously asserted that they had “decided to fight [the LTTE]” and that they would go on “until they win or we win” (Ghosh 1999:88). The ensuing peace-treaty to end the hostilities, thus, was a result of Indian intervention, not of Sri Lankan wishes. The IPKF was the continuation and formalization of this intervention. Once the IPKF were in place, the vague nature of the mandate provided for them in the Indo-Sri Lanka Agreement made military escalations inevitable once it became clear that the LTTE would not accept the terms of the Agreement – a development that was hardly surprising in light of their radical nature and the fact that they had not been included in the negotiations leading up to the treaty. The major development that set this process in motion was the Indian decision to break the Sri Lankan blockade using the threat of military force. This was the act that changed the nature of the Indian involvement in the conflict and the nature of the Indo-Sri Lankan relationship. Viewing this as the starting point of the intervention, incidentally, is not controversial; consider the following assessment in a *New York Times* article regarding the airdrop: “Not since 1971, when India invaded in what was then East Pakistan to help it become the nation of Bangladesh, has New Delhi so directly intervened in the internal affairs of a neighbor” (Weisman 1987). The signals sent by the airdrop, and the subsequent consequences of the action, are what make it reasonable to call it an intervention. With this as the starting point, then, the intervention as a whole can be seen as the period of time starting with the airdrop over Jaffna in June 1987 to the withdrawal of the last Indian troops in March 1990.

The label of humanitarian intervention having been justified and the conceptual starting point for the intervention determined, we can now proceed with an assessment of the intervention in light of the first Just War criterion: just cause.

5.3.1 *Just Cause*

To commence the moral assessment: did India in 1987 have just cause for intervention in the Sri Lankan civil war? And since the focus is on the specific question of humanitarian intervention, did the humanitarian situation in Sri Lanka in 1987 justly call for foreign intervention? The answer, in this case, does not seem as clear-cut as in the previous chapter. For, recalling the previously presented guidelines, did the situation in Sri Lanka really represent what Wheeler would term a “humanitarian emergency,” or a situation in the words of Walzer that “shocked the moral conscience of mankind?” Or was it more like the “ordinary, routine abuse of human rights that tragically occurs on a daily basis” (Wheeler 2000:34)?

Let us first examine the facts. Interesting in this regard is that many narratives regarding the Indian intervention in Sri Lanka – also those by Indians justifying India's actions – deal in somewhat vague terms of “humanitarian suffering” or “violations of human rights” rather than referring to any concrete statistics regarding civilian casualties or population expulsions; indicative, perhaps, of a sense that any concrete numbers in truth would not appear so dramatic as to justify a truly forceful reaction. The numbers that are cited are somewhat variable. On average, though, they are not quite “conscience-shocking” to anyone used to watching daily news broadcasts; a *Time* article, for example, claims that the Sri Lankan offensive to which the Indian intervention was a response had claimed 200 civilian deaths while “thousands more” were left without food (Time 1987). Rajiv Gandhi is in another article cited as claiming that “hundreds” of civilians were dying as a result of the Army offensive (Weisman 1987). One human rights organization based in North-eastern Sri Lanka sets the total number of civilian deaths in 1987 (including deaths after the inception of the IPKF, based on data collected in 2002) at over 5,000 (North East Secretariat on Human Rights 2006). Such numbers are tragic, no doubt, but certainly not unprecedented, and one would hesitate to call them conscience-shocking, particularly keeping in mind that these civilian deaths occurred in the context of war, not in the context of state-sponsored genocide or the like.

The conflict had, in truth, led to a significant refugee-flow across the narrow Palk Strait into Southern India – estimates of the collective number of Sri Lankan Tamil refugees living in India by 1987 have ranged from 60,000 (Singh 2001:113) to 130,000 (Peiris 2000:353). Such statistics, certainly, are indicative of a crisis of a considerable scale (consider, again, Indira Gandhi's point presented in the previous chapter regarding what commotion a refugee-flow of such numbers would

cause in Europe). Nonetheless, these numbers are dwarfed in comparison to the statistics presented in the previous chapter. Although direct comparisons between the two cases might not be “fair,” one might at the very least posit that in Bangladesh, the numbers truly spoke for themselves; this is not entirely so in the present case.

The question immediately brought to mind is: how many places in the world are civilian populations caught in the cross-fire between government forces and violent insurgents – with a few hundred killed and a few thousand driven to flee their homes? Civilian casualties of such a scale in, say, a number of contemporary African conflicts raise very few eyebrows, if they are even reported in the global media. From a moral perspective, would all these instances warrant foreign intervention in defense of these minorities? As we have discussed, such a situation could potentially lead to a highly unstable international community. Since the civilian deaths in this case mostly occurred in a context of warfare, one might relevantly invoke the *in bello* concept of “double effect,” which stresses that civilian suffering is *always* an unavoidable side-effect of war. One might argue, in this vein, that some extent of civilian suffering in any armed conflict must always be tolerated, before intervention is called for – partly why Walzer and Wheeler set the guidelines that they do. It seems we are faced with a situation where the question of whether or not the civilian suffering was of a tolerable extent is not quite easily answered, but where the provided guidelines for what justifies humanitarian intervention are not decisively met. As such, it would seem that we would be forced to conclude that India's cause for intervention in 1987 was not quite just – at least from a purely humanitarian interventions point of view.

Not content with this conclusion, however, let us examine the case more closely and apply different perspectives. One may, for example, posit that these “ordinary” casualty-statistics are an extremely positive sign; far from indicating that the cause for intervention was unjust, they simply show that the Indians successfully intervened *before* the suffering reached staggering proportions. Numerical indicators are insufficient; to determine the justice of the cause one should look at the *prospects* for the population of Jaffna – and these, admittedly, were certainly not good at the time of the Sri Lankan blockade and offensive. Matters were likely to get significantly worse before they got better, particularly keeping in mind the Tiger's propensity to “blend in” with the civilian population as a strategy of survival, which would inevitably have led to an increasingly grim situation as the Sri Lankan Army closed in on Jaffna City.⁴⁵ As such, this might be one of the rare cases where intervention truly happened *before* things got really bad. In this view, India should be praised, not chastised for intervening when they did. This possibility will be further explored in the

⁴⁵ This argument, of course, is somewhat weakened by the fact that the Indian Army, a few months later, would be making the same push into Jaffna that the Sri Lankan Army was making at the point of intervention, with the same inevitable side-effects on the civilian population.

“proportionality” discussion, but in the present context it serves as a timely reminder that a cause should not simply be judged by such un-nuanced indicators as casualty statistics.

To follow this line, then, one must further keep in mind that one's perception of the scale of humanitarian suffering to a great extent is a result of perspective. For it is without doubt that the situation in Jaffna was conscience-shocking to the civilians in Jaffna themselves, and, importantly, it seems it was conscience-shocking to the Tamils in India as well. This again brings up the link to the intentions criterion – for if the Indians perceived the situation as a genuine humanitarian emergency that had to be halted, were they not right to intervene? We will, of course, approach the question of intentions in the next section. For now, this perspective raises an important question: if a “supreme humanitarian emergency” is seen as a just cause for intervention, is it not sufficient that a significant amount of people view themselves as being faced with such an emergency? Let us remember that the conflict in question was focused around a city of around 700,000, the total number of Tamils in Sri Lanka at the time estimated at around 2,8 million (Time 1987) – the population of Bangladesh at the time of intervention there, in comparison, was estimated at around 75 million. Thus, although the scale of the crisis in Sri Lanka may not appear so drastic at first sight, in *relative* terms, one might well take a different view of the proportions of the threat that the Sri Lankan Army offensive and the blockade were posing to the population of Sri Lankan Tamils – certainly it is not hard to imagine that this was perceived by themselves as an emergency of truly critical proportions.

This line of reasoning, although certainly intuitively appealing, is problematic. For intervention can surely not be justified whenever a “humanitarian emergency” is *perceived*. This brings us back to a point posited both in the earlier theoretical presentation and several places in the former moral assessment: part of the entire purpose of the Just War Tradition is to attempt to make some sort of “objective” guidelines for when war – and humanitarian intervention – can be morally just. For war is such a destructive instrument – and intervention potentially so destabilizing both in its immediate and wider, long-term effects – that it cannot necessarily be used whenever someone perceives injustice. Intervention cannot be warranted whenever 100 people feel mortally threatened, tragic though that may be. What, then, when 1,000 people perceive an emergency? Or 100,000? When 50% of a minority population are being threatened with expulsion or death? No specific numerical guidelines are available, only the guidelines we keep referring to. As such, we are forced to keep returning to the same conclusion: by the “objective” guidelines cited in this text that reflect the general consensus in Just War thinking regarding the question of just cause for humanitarian intervention, it still cannot be argued entirely convincingly that the cause for foreign intervention in

Sri Lanka in 1987 was unambiguously just purely as a result of the humanitarian suffering – regardless, even, of the views of the Sri Lankan Tamils themselves.

In a final effort to get around this conclusion, let us apply a more long-term lens, and pick up the discussion introduced in the previous chapter regarding the impact of the legitimacy of a secessionist movement on the moral stature of the cause for humanitarian intervention. For the events of 1987 did not happen out of the blue, but rather represented the culmination of a long-term pattern of repression and violence which had inevitably affected the minority Tamils greatly. One Jaffna-based Human Rights organization claims that government initiatives had caused over 20,000 civilian deaths between 1983 and 1987 (University Teachers for Human Rights (Jaffna) 1992). In addition to this, the Tamils had been discriminated against, politically, economically, and culturally – this is beyond doubt to the objective observer. The Tamils had been alienated from the larger Sri Lankan population, largely as a result of government policies. Tamil representatives, notably the LTTE, perceived of the Tamils as a separate “nation,” distinct from the Sinhalese, dismissing the Indo-Sri Lanka Agreement partly on the basis that it did not recognize them as such. In Walzer's terms, one might argue – the Tamils certainly did – that Sri Lanka by 1987 “clearly contained two political communities.” The two communities had certainly clashed on many occasions, both militarily and in large-scale ethnic rioting such as was witnessed in 1983 when the situation escalated into “civil war.” Subsequent conflict had doubtlessly brought much suffering upon the Tamil people in the north, suffering that was made substantially worse by the government blockade and offensive in 1987. Was not the cause for intervention in 1987 then strengthened by this level of ethnic polarization and this legacy of suffering? To allude to an earlier point, one might well laud the Indians for intervening to prevent the humanitarian situation from deteriorating even further in this volatile environment. Applying this perspective, it seems reasonable, when one views the situation of 1987 in its long-term context, to propose that the cause for intervention was strengthened. In fact, this is a conclusion it is hard to disagree with; the prospects for Sri Lanka, and the Tamils of the north in particular, seemed to be quite poor by mid-1987, the most likely scenario being a further deteriorating situation and a worsening humanitarian situation in an increasingly polarized and vengeful atmosphere.

So, how can the just cause discussion be summed up? Despite the repeated conclusion that the situation did not seem convincingly to fulfill the posited guidelines for when humanitarian intervention is justified, one might, at least for the sake of argument, reasonably give India the benefit of the doubt. Although the situation did not represent an unambiguous “humanitarian emergency” as was the case in Bangladesh in 1971, it certainly might have been perceived as such by the beleaguered Tamils of Jaffna, living under blockade and military attack, and dominated by a

ruthless and uncompromising guerrilla army. More importantly, however, the situation represented the fearful culmination of decades of systematic repression by successive central governments. The only meaningful solution to the problem may have been to procure a certain degree of autonomy for the Tamils in Sri Lanka in the continued framework of a unified Sri Lanka – precisely what the Indians tried to achieve in the Indo-Sri Lanka Agreement. The developments had led to a steady flow of Tamil refugees into southern India. Although truly humbled in comparison with the Bangladeshi case, the number of refugees was still quite significant. These factors to a certain extent speak in favor of accepting, if not unambiguously condoning, the Indian cause for intervention in 1987 as just – barely.

To further test this claim, we might usefully recall the guidelines posited by the International Convention on Intervention and State Sovereignty, presented in chapter 3. The ICISS proposes that humanitarian intervention may legitimately be condoned in the face of “large-scale loss of life, actual or apprehended, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or, large scale “ethnic cleansing,” actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape” (ICISS 2001: 32). One might say, without too much controversy, that relatively large-scale killing and possibly ethnic cleansing could genuinely be apprehended by the Tamils in 1987, particularly if the situation is seen in light of the legacy of the preceding decades. Furthermore, it is not unreasonable to assert that deliberate state action and, indeed, neglect, was at least partly to blame for this. As such, a tentatively accepting verdict of the cause for intervention in 1987 is lent a certain degree of support.

The danger remains, of course, of determining a situation of “limited” humanitarian suffering as just cause for intervention – limited, certainly, compared to such cases as Bangladesh, Rwanda, the Balkans, or Sudan.⁴⁶ However, five criteria remain which might mitigate the tentative verdict of this intervention. So, again, let us for the sake of argument give India the benefit of the doubt in the question of just cause – although perhaps not justifying the cause quite as resoundingly as was the case in the previous chapter – and move on to discuss these other criteria.

5.3.2 Right Intentions

Perhaps to an even greater extent than in the previous chapter, the question of India's intentions for intervention seems to be of great importance in the current moral assessment. Even more than in the Bangladesh case, India quite obviously had other motives than the humanitarian one for intervening in Sri Lanka in 1987. And the above discussion that only reluctantly accepted the humanitarian argument as a possible just cause for intervention makes a discussion regarding

⁴⁶ The last three, remember, occurring after the Sri Lankan intervention. The Bangladesh case, however, in many ways served as a precedent to which the Sri Lanka case was compared in the wider Indian discourse.

genuine intentions (and the remaining criteria) even more interesting. Let us then first systematically review India's possible intentions in intervening in the conflict, before proceeding to assess which intentions seem to have been dominant.

Firstly, it must be stressed that the presence of other motives in no way means that the Indian actions weren't at least partly motivated by genuine humanitarian concern for the well-being of the civilian population in the war-torn areas of Sri Lanka. Certainly genuine humanitarian sentiment seemed to motivate the people and officials of the state of Tamil Nadu to press the central Indian government into action. Thus, for now, let us stress the possibility that the Indian intervention to a greater or lesser extent was genuinely motivated by “the mutual tie of kinship between among men,” to cite an important Just War thinker (Grotius 1625 in Reichberg et.al. 2006:416).

However, consider again the point made immediately above: humanitarian sentiment seemed genuinely to motivate the people and officials *of the state of Tamil Nadu* in pressing for action. This does not necessarily entail that the central government, in the end the entity responsible for initiating the intervention, shared in this humanitarian concern to any extensive degree. The intentions of the ultimately responsible entity should, arguably, be of the greatest concern here. On that note, rather than acting in genuinely selfless concern, quite the opposite is very possible – that the Indian government acted for selfish reasons, with the intention of appeasing Tamil sentiment in India so as to avoid internal unrest and, crucially, ensure electoral support from the 50 million Tamils who were so deeply incensed at the suffering of their ethnic kin just across the strait. Controversial though it may sound, one would have to be quite the idealist to deny the assertion that electoral concerns can be important influences also when it comes to important foreign policy decisions at the highest level. Rajiv Gandhi would not have been oblivious to the fact that failure to act decisively in support of the Sri Lankan Tamils in the face of such vociferous appeals for action from the south Indian Tamils, and indeed from the highest echelons of the Tamil Nadu administration,⁴⁷ would cost him Tamil votes come election-time. Furthermore, the central government would not be well served by providing discontented voices in the state of Tamil Nadu with excuses for anti-governmental agitation. So, could it be that self-preservation was Rajiv Gandhi's main motivation in choosing to intervene in Sri Lanka in 1987?

Certainly, allegations that internal politics were a constant factor decisively influencing central governmental policies vis-à-vis Sri Lanka are frequent. As an example, I can cite a Sri Lankan author:

⁴⁷ I am referring to the letter sent to Rajiv Gandhi from the Chief Minister of Tamil Nadu, cited earlier.

[The IPKF's failure] had as much to do with the reluctance if not failure of the Indians to deliver a *coup de grace* to the LTTE – for political purposes linked to the byzantine politics of Tamil Nadu – as with the LTTE's far superior knowledge of the terrain they were operating in relative to that of the Indian. The LTTE was permitted to maintain a small but conspicuous presence in Madras [even during the IPKF's tenure] through which it channelled its official “messages” to various parts of India, and from there to the rest of the world. This contradiction in Indian policy, was regarded in Sri Lanka as a concession to Tamil Nadu sentiment. (De Silva 2000:59).

Also Indian authors stress the continuing influence of the Tamil electorate on Indian policy regarding the Sri Lankan conflict. Ganguly, for example, comments, regarding early Indian policy vis-à-vis the conflict, that “due to imperatives of electoral politics, the Congress government ... could not afford to give the impression that India was insensitive to Tamil sentiments” (Ganguly 1998:206). Of course, one might ask if the fact that electoral considerations influenced policy-decisions is a problem from a moral perspective. Is not the point of democracy precisely that the electorate's wishes should influence the direction of policy? Is this not one of its moral strengths? The answer to this might depend on how one sees the influence occurring. In the specific context of Sri Lanka 1987, one might either see the Indian policy as *reflective* of the popular sentiment of Tamil Nadu, or one might see the interventionist line being decided upon by the government *in self-preservation in light of* the popular sentiment. A strict perspective of the Just War concept of “right intentions,” as presented in chapter 3, would hold the former view potentially rendering the criterion fulfilled, the latter rendering it unfulfilled – although such a strict view may be seen as somewhat “outdated.” Let us for now conclude that such considerations undoubtedly played a part in the decision-making process in 1987. The extent to which such considerations played a decisive part, and the extent to which this should matter in a moral assessment, must remain largely matters of speculation and perspective, respectively.

Let us move on to other potential motives for the Indian intervention. For self-interested intentions are also evident in the Indian pursuit of larger strategic gains in the negotiations leading up to the signing of the Indo-Sri Lanka Agreement. That strategic concerns played an important role in the Indian decision to intervene indeed seems quite clear; one need look no further than the exchange of letters preceding the signing of the Indo-Sri Lanka Agreement to see that India openly had its mind on issues of no direct relevance to the suffering of the civilian population in Sri Lanka when intervening in the conflict and entering into negotiations with the Sri Lankan government. The Indian “Monroe Doctrine” stemming from the time of Indira Gandhi has been briefly mentioned; India was fundamentally opposed to the intervention of foreign powers in the affairs of states inside the Indian “sphere of influence” (Hagerty 1991:351-353). As such, it can be surmised – and has been indicated – that one major motivation behind the Indian intervention was a

replacement of foreign involvement in the Sri Lankan conflict with Indian involvement, involving among other things the replacement of a US presence in the port of Trincomalee with an Indian presence. The Indian government had much to gain – in its own perception, not least – from taking an active role in the Sri Lankan conflict; the conflict can thus be seen as having been used as a pretext for intervening, and the intervention as an opportunity to demand the “reconsideration” by Sri Lanka of its ties with foreign powers such as the US, Israel, and Pakistan, and open the door for an Indian military presence on the island. This thesis, though again controversial (at least when so bluntly posed), is given considerable credibility by an analysis of the Indian documents surrounding the events of July 1987. As one commentator notes, “[t]he July 1987 Accord and related documents were remarkable [among other things] for the extent to which they reflected New Delhi's desire for preeminence in South Asia” (ibid.:356).

At this point, it seems beyond doubt that certain “selfish” motives influenced the Indian decision-makers in 1987 to a greater or lesser extent. Few commentators posit that the intervention was motivated simply by humanitarian concern (explaining, perhaps, why the intervention is not conventionally referred to as a “humanitarian intervention”). But we have also maintained the possibility of humanitarian concern genuinely being an underlying intention for the Indian actions. How can one determine which intentions were the most influential? Recalling chapter 3, one way of gauging intentions is through the analysis of actions. On this note, it is significant that the IPKF, also after becoming engaged in heavy fighting with the LTTE, was restricted in its actions by self-imposed rules of engagement that sought to minimize civilian casualties – an indication of general humanitarian concern.⁴⁸ Following the capture of Jaffna, the IPKF was heavily involved in attempting to rebuild administrative functions in the city, and providing necessary aid to the civilian population in cooperation with the Red Cross (Singh 2001:109) – another indication that humanitarian concerns were indeed a genuine factor underlying the intervention. However, as relations soured and the IPKF campaign dragged on, Indian troops would be accused of human rights abuses with increasing frequency (De Silva 2000:59). The number of civilian casualties ended up being significantly higher than the total number of LTTE casualties – an estimated 3,608 civilians being killed (North East Secretariat on Human Rights 2006), as compared to the estimated 1,500 LTTE soldiers (Ghosh 1999:145). These developments might be seen as indications that the “pure” intentions for fighting eventually were replaced, to apply some classical Just War terminology, by “the cruel thirst for vengeance” as the LTTE's guerrilla campaign persisted (Aquinas 1268-1271 in Reichberg et.al 2006:177).

⁴⁸ Indeed, ironically enough, this very limitation on the IPKF probably contributed to its lack of total success against the LTTE – thus paradoxically contributing to a failure to ultimately produce a “balance of humanitarian good over harm,” as will be discussed under the proportionality criterion.

Analyzing the Indian actions, several paradoxes are apparent. Firstly, the Indians intervened to halt a Sri Lankan Army offensive against the LTTE, only to subsequently pursue an all-out offensive against the Tigers themselves only months later. It should not be forgotten either that this was a group that the Indian government previously had helped build up and train. Furthermore, the LTTE was permitted to maintain a formal presence in the Indian city of Madras even when the IPKF was pursuing their total defeat, as indicated earlier. Out of these contradictions one might well read shifting and contradictory Indian intentions. It might be argued, for example, that they indicate that the Indians, when pursuing the Indo-Sri Lanka Agreement, were primarily focused on the question of achieving certain strategic gains, rather than focused on support for the Tamil cause. Indeed, fighting against the very people they previously had trained and harbored for over a decade can easily be viewed as an indication of opportunism – when it suited the Indian government, they alternately supported and opposed the LTTE, at times doing both simultaneously. Such observations sow some doubts about the genuine Indian intentions.

Of course, one should be wary of being unduly harsh on the IPKF and the Indian decision-makers, just as one should be careful not to credit them with an unrealistic degree of control over the situation. Although contradictory objectives can be read as indications of underlying intentions of a shifting nature, Indian actions may just as easily be read as necessary responses to unpredictable developments in a complex and dynamic situation. As the former Indian High Commissioner to Sri Lanka notes, “[w]hen you take a decision, you are in the middle of a situation. Nobody sitting in a chair 10 years later, five years later, is competent to judge whether it was necessary or not” (Rediff.com 2000). There is some truth to this observation (although ascribing to it total truth would render this entire thesis unsustainable). One might argue, for example, that taking on the LTTE when they failed to agree with the Indo-Sri Lanka Agreement’s terms was the logical next step in the pursuit for “peace and normalcy” in Sri Lanka – a necessary step, indicative not of shifting intentions, but on the contrary of a fervent adherence to the original intention of bringing peace. Indeed, the shifting Indian strategy can be seen as proof of a willingness to bring peace to the country even at the cost of Indian lives, their perseverance in the face of the prospect of a drawn-out guerrilla struggle speaking positively of Indian intentions, not negatively. Again, perspective is the crucial variable.

Nonetheless, the sum of the analysis of India's actions viewed in the light of the potentially self-interested motives seem to indicate that this is one instance where the intentions criterion can not be confidently proclaimed to have been fulfilled. A final, telling indication of the seeming prominence of “selfish” intentions is the somewhat rushed nature of the formulation of the Indo-Sri Lanka Agreement, and, specifically, the guidelines for the IPKF. For both the IPKF soldiers and the

Indian decision-makers seemed unprepared for the escalations that followed. These escalations, certainly for an objective observer operating with the benefit of hindsight, were unsurprising, even inevitable, given the way the Indo-Sri Lanka Agreement was pressed through without popular support and without the acceptance of the LTTE. Indeed, it is indicative in itself of a prominence of selfish intentions that the LTTE – one of the major parties to the conflict – was not included in the negotiations to the treaty. This crucial omission will be returned to later. For now, suffice it to say that, even at the time, “speculation [was] rife in both Colombo and Delhi that Gandhi rushed into the pact unthinkingly as a short-term solution to his own political problems at home” (Pfaffenberger 1988:142). This view of the true intentions for the Indian involvement seems reasonable also in hindsight.

To bring this discussion to a conclusion: we have seen that India, disregarding the humanitarian concerns, certainly had selfish motives for getting involved in the Sri Lankan conflict – motives that they pursued quite openly. Furthermore, Indian actions, though somewhat ambiguous, seem to reveal the prominent stature of the “non-humanitarian” intentions of the Indian decision-makers. It is impossible, of course, to ascertain with complete certainty the intentions most decisively influencing the Indian course of action in 1987. An illuminating quote, however, comes from the Indian High Commissioner to Sri Lanka at the time of the intervention, speaking in an interview 10 years later:

You have to look at it in two contexts: Either you are a totally committed moral country. In that case, you should have said that it is a problem of another country, it is an internal problem, do sort it out [*yourself*]....Or, because of consideration of our politics, and our internal political pressures, external consequences, we have taken an initiative that is strictly not moral. In that case, we should finish the task that has been undertaken. (Rediff.com 2000)

It is illuminating to see that even central Indian decision-makers were of the opinion that the intervention was initiated as a result of “internal political pressures and external consequences,” and in hindsight perceived of the action as an enterprise that was “strictly not moral.” Considering the circumstances which led to direct military involvement – the forcible provision of humanitarian aid – and the self-imposed restraint with which the IPKF subsequently operated in order to minimize casualties, one might again be tempted to give India the benefit of the doubt regarding their “real” intentions with the intervention. However, it seems fair to conclude that in light of the unashamed pursuit of strategic and personal goals of no relevance to the humanitarian situation, any positive conclusion to assessment of the intentions criterion would be too generous. This is not, of course, to say that the many involved Indian soldiers, generals, and civilians were not genuinely emotionally concerned with the plight of the Sri Lankan Tamils and agitated purely for an improvement of the humanitarian situation. Rather, it is to say that the intentions of the responsible decision-makers in the Indian government seem to have been of such a nature that one cannot confidently say that they

were acting with the “right intentions” when they intervened in the Sri Lankan conflict in 1987. Let us, for now, leave the discussion at that, and move on to discuss the remaining criteria.

5.3.3 *Legitimate Authority*

The legitimate authority criterion in this case presents an interesting discussion. It is important to keep in mind the conceptual choices presented in the introduction to the moral assessment, where the forcible Indian provision of aid to Jaffna was viewed as the first point of intervention. As such, the authority underlying *this* action should rightly be examined first. That being said, the intervention directly led to the Indo-Sri Lanka Agreement, the document that represented the formal authorization for the Indian involvement in the conflict. It is a moral assessment of this document that perhaps represents the most interesting prospect in an analysis of the Indian authority to intervene in 1987. The Agreement attempted to legitimate the Indian intervention in the conflict, authorized the deployment of Indian troops in a foreign country, and largely shaped the direction that the intervention subsequently took. It would become the document referred to as the basis for the Indian involvement in the conflict, a responsibility to uphold the terms of the Agreement invoked as justification for subsequent Indian actions. The question of “legitimate authority” should in this case therefore be dealt with in two steps: firstly, one can ask whether or not India legitimately had the authority to intervene in the conflict in the first place, through the provision of humanitarian aid against the Sri Lankan government's wishes. Subsequently, one may ask whether or not the Indian authority to intervene was substantially enhanced as a result of the signing of the Indo-Sri Lanka Agreement, particularly given the fact that the Indian intervention dramatically intensified following the signing of the treaty. Let us begin, however, with an assessment of the legitimacy of India's authority to intervene to stop the Sri Lankan Army's offensive in mid-1987.

The Indian airdrop on 5 June was a unilateral act – as was the intervention in the previous chapter. Again, then, we are faced with a situation where the head of state of a sovereign state ordered the deployment of military force in a foreign country without foreign backing – this time clearly without having been attacked or even threatened by that country. As such, we are faced with the classical discussion in the contemporary debate regarding “legitimate authority”: is international backing – UN backing in particular – always necessary for the employment of military force not in self-defense? In the previous chapter, we were faced with a similar question, and concluded that the Indian government had the legitimate authority to act in protection of the people of Bangladesh, in spite of widespread international condemnation. In the Sri Lanka case, international condemnation was nowhere near as explicit, a fact that seems to mitigate the need for a clear international

authority. In fact, it seemed that most countries viewed the Indian actions as just; even the US, which was an avid critic of India's intervention in Bangladesh in 1971, did not criticize the Indian airdrop in 1987, even though it no doubt appreciated its implications (Ghosh 1999:83). The Sri Lankan government, in response to the airdrop, initially “vowed to raise the issue at the United Nations” (Weisman 1987), but was joined by few in condemnation. Indeed, although an audacious move, the airdrop was not an action so easily condemned; it did not involve any Sri Lankan deaths, and on the contrary perhaps prevented deaths by providing a beleaguered civilian population with essential supplies. Sri Lankan condemnation thus quickly faded away as the Sri Lankan government instead entered into negotiations with the Indian government, which led to the Indo-Sri Lanka Agreement.

Recalling the reflexive nature of the authority criterion⁴⁹, and combining this with the just cause of applying military force in the interest of “the mutual tie of kinship among men,” one might conclude that India, in 1987, had sufficient authority to intervene in the Sri Lankan conflict in 1987, *keeping in mind* that the initial intervention which we are now assessing consisted only of the forcible provision of humanitarian aid. The Indian government, in sending the aid, cited the well-being of the Tamil people as justification, invoking in the process the Just War notion that authority to apply force stems from the responsibility to protect people. The Tamils in Jaffna, owing to the way they were being treated by the Sri Lankan government, were not being protected, and as such “sovereignty” over them had to be ceded to another authority. The Indians, partly in light of their status as legitimate sovereign over 50 million of the Sri Lankan Tamils' ethnic kin, took sovereignty over the Sri Lankan Tamils upon themselves in the provision of the humanitarian aid in June 1987. This line of argumentation, though somewhat hazy, seems reasonable in this specific case. For now, then, we can conclude that the Indian government had sufficient authority to act as it did in June 1987 – the justification for this largely following the lines of the discussion in the previous chapter.

As we know, however, the Indian intervention was to undergo a radical change in character, eventually evolving into an all-out military campaign involving the mobilization of an alleged 100,000 troops. Interestingly, it seems evident that the Indian government itself perceived that for an intervention of a more substantial nature, a more authoritative foundation was needed. As we recall, “[t]he more glaring the injustice to be remedied, the less clear the authority may need to be” (Fixdal & Smith 1998:12). Perhaps the fact that the “injustice to be remedied” was not quite so glaring as to clearly have justified an extensive unilateral intervention meant that the Indian government felt a need to make the authority underlying their intervention more clear. Thus, a more firm authority would be sought, and apparently found, in the ensuing Indo-Sri Lanka Agreement.

⁴⁹ The clearer the cause, for example, the less clear the authority needs to be, and vice versa (Fixdal & Smith 1998).

The Agreement represented the formalization of Indian involvement, and as mentioned to a great extent shaped the way in which this involvement evolved. Let us therefore move into an assessment of the moral stature of the Indo-Sri Lanka Agreement.

Firstly, it is significant to mention that the treaty decisively resolved any questions regarding the *legality* of the Indian involvement in the Sri Lankan conflict. The Indo-Sri Lanka Agreement was signed by the heads of state of both India and Sri Lanka, and as such represented a legally binding document – removing the need for international sanction of any sort. Indeed, the extent to which the Agreement was recognized as legally binding is illuminated by the fact that, as late as 2006, a full 16 years after the IPKF pull-out, great controversy was aroused when the government of Sri Lanka decided to permanently disband one of the provisions of the treaty – the merger of the northern and eastern provinces of Sri Lanka, where the Tamils claim their traditional homelands (Manivannan 2006). In sum, the Indo-Sri Lanka Agreement was signed between the two heads of state, and based on the provisions of the peace treaty the IPKF was formally invited by the Sri Lankan government. From a legal perspective, there is little doubt about the legitimacy of the authority on which the IPKF rested.

But what about the Agreement's authority seen from a moral perspective? Upon closer inspection, several aspects regarding the circumstances surrounding the signing of the treaty indicate a more negative assessment of the Agreement's status. Most glaringly, the Agreement's authority is significantly weakened when one considers the fact that one of the main parties to the conflict, the LTTE, weren't involved in the negotiations. This is particularly problematic in light of the fact that the accord required from them perhaps the biggest of conceivable concessions, in that it required them to permanently lay down their arms and renounce their struggle for an independent homeland. From a moral perspective, imposing terms on a major party to a conflict without prior negotiation represents a serious omission. This is particularly so when the party has achieved a status of a certain extent; even in legal terms, "as soon as the insurgents establish control over some substantial portion of the territory and population of the state, they acquire belligerent rights and an equality of status with the government" (Walzer 1977:96). In light of the LTTE's status as of 1987, when they in practice controlled substantial portions of northern and eastern Sri Lanka, they had certainly achieved a legal, and also a moral right to be a party to any discussions regarding the fate of the territory under their control. The failure to meaningfully consult the LTTE in the negotiations to the Indo-Sri Lanka Agreement can thus be said to have diminished the Agreement's status as a morally binding document. Indeed, this to a large extent ensured the Agreement's ultimate failure as well, seeing as it practically guaranteed that the LTTE would not comply with its terms.

Recalling again the reflexive nature of the authority criterion, it is also relevant to reiterate the ambiguous nature of the Indian intentions in entering into the Agreement. For the fact that India clearly had its mind on the pursuit of strategic gains when entering into the intervention and subsequent treaty does little to improve the status of the document as morally authoritative. The apparent prominence of ulterior motives has already been dealt with in the discussion regarding intentions. Indeed, allegations have even been made – by the Indian High Commissioner to Sri Lanka at the time of intervention, no less – that the entire idea of Indian peacekeepers being deployed to Sri Lanka was an “after-thought” of sorts, a late addition to the Agreement resulting from President Jayewardene's wish of employing the Sri Lankan Army in the south to quell the radical Sinhalese uprising, rather than from any strong Indian conviction of a responsibility to guarantee the Agreement's implementation (Rediff.com 2000). Although this allegation may well represent an attempt of “washing one's hands” of the responsibility for the IPKF's failure, it does serve, in combination with the obvious prominence of geo-strategic and electoral concerns, to diminish the apparent moral stature of the Indo-Sri Lanka Agreement as an embodiment of the authority for Indian intervention.

Following this line, it is also illuminating to examine briefly the Sri Lankan government's situation when signing the treaty. For it is quite clear that the Sri Lankan government in June 1987 initially had no wish of signing a peace treaty with the Indian government which accorded significant concessions to the Tamils and an amnesty to Tamil fighters who Jayewardene had only a short time earlier vowed to defeat. The Sri Lankan President, however, found himself in an increasingly pressured situation as 1987 progressed. With the Indian airdrop to Jaffna, India had sent a clear signal of their intent to stand up for the Tamil cause, and as such forced the Sri Lankan army offensive to a halt. Further pursuing the LTTE militarily was clearly not an option for Jayewardene, as he would then have reason to fear a more direct application of Indian military force in defense of the Tamils. Parallel to this was the growing threat of the militant radical Sinhalese movement in the south, the JVP, which was increasingly creating havoc in and around the capital of Sri Lanka, a situation that desperately required a greater application of Sri Lankan Army forces (Pfaffenberger 1988). President Jayewardene's freedom in the negotiations to the Agreement was thus severely constrained. Summing up the context around the signing of the Indo-Sri Lanka Agreement, then, it seems that the Agreement represented a document signed by a self-interested India and a pressured Sri Lanka.

One final, crucial variable should be mentioned. For, in this case, the Indian government – *after* the initial airdrop of humanitarian aid – could not legitimately claim to be acting on behalf of the people of Sri Lanka. The people of Sri Lanka, both Sinhalese and Tamil, were to a greater

extent interested in ending Indian intervention than inviting it in an expanded form, even before the Agreement was signed and Indian troops actually landed on the island. The general Sinhalese populace never condoned the Agreement, seeing it as a government “sell-out” to the Indians. Sinhalese discontent was amply evident in the large-scale demonstrations following the signing of the Indo-Sri Lanka Agreement, demonstrations which caused one Sri Lankan government official to comment that “90 % of the Sinhalese people are against us” (Desmond 1987). Many Tamils, on their side, felt that the Agreement failed to meet their main demands – pointing mainly to the lack of recognition of a “Tamil nation,” the harshness of the terms on the LTTE (The Tamil National Struggle & the Indo-Sri Lanka Peace Accord 1988), and what they perceived as insufficient devolution of real power to the Tamil areas (Satyendra 1988). Substantial portions of the Tamil communities nonetheless initially welcomed the Indians, particularly as their initial induction halted the ongoing Sri Lankan Army offensive; however, as the IPKF began to take on Tamil forces and cause civilian casualties, also the Tamils grew increasingly resentful of the intervention. The IPKF even earned the unflattering label of “Innocent People Killing Force” in the popular discourse in Jaffna following the offensive to capture the city (Grande 1991:101). Popular backing – arguably the most legitimate source of moral authority, also from a Just War perspective – was almost entirely lacking for the Indo-Sri Lanka Agreement, the document representing the legal basis for the formalization of Indian interference in the Sri Lankan conflict.

Regarding the Indo-Sri Lanka Agreement, then, it seems reasonable to conclude that the fact that it to a great extent was aimed at assisting the leaders of India and Sri Lanka in achieving their respective strategic goals does little to enhance its moral stature. Furthermore, the fact that the Agreement enjoyed minimal popular backing in Sri Lanka simply amplifies this negative observation. As such, the Indo-Sri Lanka Agreement – the *legal* authority on which the Indian intervention to a great extent rested – can be concluded to have been of a dubious moral character. Though this does not necessarily serve to render the entire authority criterion unfulfilled, it does little to strengthen the apparent legitimacy of the Indian authority for intervention. One might say that the fact that the Indian government sought a legal agreement to justify its intervention speaks of an Indian recognition of the fact that their intervention at the outset rested on an insufficiently authoritative basis – or at least a recognition of the need for a more solid authoritative basis for an expanded and formalized intervention. However, this does not improve the poor moral stature of the Agreement, which is particularly significant in light of the fact that the Indian intervention, following the signing of the Agreement, took a dramatic turn from having involved a relatively innocent use of military aircraft in a show of force to involving an estimated 100,000 troops periodically engaged in intense warfare. While it is possible to posit that the intervention at the

outset did not require a firm, multilateral authority, given its limited scale and clearly humanitarian character, it is equally possible to posit that the IPKF, particularly following the decision to pursue military victory over the LTTE, needed a firm moral basis. This basis was sought in the Indo-Sri Lanka Agreement. The Agreement, however, does not necessarily fare well in the face of close moral scrutiny.

It seems, then, that the legitimate authority discussion in this case has nullified one of the initial assumptions made in introduction to this thesis – the seemingly firm authority on which this intervention rested as a result of its basis in a legally binding bilateral treaty. This was posited to be one of the factors seemingly giving this intervention a “moral edge” on the Bangladesh intervention, which by all measures was an illegal act, if nothing else. In sum, it can be said that the fact that India proceeded cautiously at first – forcibly providing humanitarian intervention, but not using direct force – and then sought a formal foundation prior to a more substantial intervention, probably contributed to making the Indian intervention “acceptable” in the global opinion – if not in the collective opinion of the majority of the Sri Lankan populace. However, upon closer inspection, the moral stature of the document that “sold” the Indian intervention to the popular opinion can easily be viewed as doubtful; the document was only signed by a Sri Lankan President under great pressure – India having just proved its intent to intervene in support of the Tamil cause – and an Indian Prime Minister pursuing strategic and electoral gains. The moral stature of the Agreement is further diminished by the fact that one of the major parties to the conflict that it attempted to resolve was ignored in the negotiations. It seems that, though India perhaps lacked the formal authority to intervene initially to forcibly provide humanitarian aid, this aspect of the intervention was of such a character as to allow the Indian government to act legitimately with reference to a “responsibility” towards the suffering citizens of northern Sri Lanka. The Indo-Sri Lanka Agreement provided a legally legitimate authority for the ensuing expansion of the Indian intervention and the induction of the IPKF – but the Agreement has been judged morally weak. Furthermore, the IPKF aspect of the intervention received precious little popular support in Sri Lanka.

Compare this to the Bangladeshi case, where the Indian government lacked a formal authority, but had the full backing of the target people – and one is left with an intriguing platform for the comparative analysis of the next chapter.

On that note, we will proceed to an assessment of the three prudential criteria.

5.3.4 Last resort

Was the Indian intervention in Sri Lanka in 1987 undertaken upon an assessment of this being the last possible way to prevent (or end) a “humanitarian emergency” in northern Sri Lanka?

Or was it a rash military adventure undertaken when peaceful means – or non-intervention – could have better resolved the conflict? In order to get a good handle on the last resort criterion in this case, one must, I believe, approach it in two different ways. Firstly, one must ask if the Indian intervention *started* as a last resort – referring, of course, to the initial involvement that led to the Agreement and the IPKF. Subsequently, it is fruitful to evaluate whether or not ensuing escalations and the pursuit of the LTTE were undertaken as last “resorts”. As such, then, this assessment around the last resort criterion will largely take the shape of a step-by-step evaluation of the Indian intervention as it unfolded and evolved.

Let us first review the history of the Indian involvement in the conflict. For, as we have noted earlier, India was involved in the conflict from prior to the escalation into “civil war” in 1983. This involvement took the shape of both support for the Tamil insurgents and, significantly, various largely unsuccessful attempts at encouraging a diplomatic settlement. This observation is important, as it illustrates the fact the Indian government for years pursued a peaceful solution to the Sri Lankan conflict. Certainly, it might be noted that the Indian position as “mediator” was seriously impaired by the fact that crucial support for the Tamil rebels all the while was coming from Indian authorities at both local and national levels. Nonetheless, the important fact is that the Indian government up until 1987 had refrained from any direct flexing of Indian military muscle in its involvement in the Sri Lankan conflict.

This, as we know, changed with the airdrop of aid to Jaffna on 4 June 1987. It seemed that Indian attempts at mediation were having little positive effect, as the Sri Lankan-LTTE conflict escalated, reaching an erstwhile climax during “Operation Liberation” in 1987. As such, the Indian government opted for intervention in the form of the airdrop. Significant in an assessment of this action in the context of the current criterion is the fact that the Indian government initially attempted to send the humanitarian aid peacefully – by a flotilla of civilian ships – before they backed the action by a demonstration of military strength. This, again, speaks positively of India's use of force being a “reluctant” last resort – applied only when the use of non-military means failed. The crucial question is: were there other avenues open in 1987 than forcible intervention that could conceivably have resolved the situation peacefully pursued? It seems clear that India, prior to the application of force, on several occasions attempted to persuade Sri Lanka to call off its blockade and offensive, without success. This only strengthens the positive impression of Indian “restraint” indicated by the history of Indian attempts at diplomatic mediation between the conflicting parties in Sri Lanka. It seems a reasonable assertion, in light of some of the forceful statements of intent to persist with the military solution made by President Jayewardene, that only a demonstration of military power such as was shown by India in June would have halted the Sri Lankan Army's offensive in 1987. Halting

this offensive was arguably conceived of by India as vital to ensure an acceptable situation for the civilians of the Jaffna peninsula. As such, it seems a fair conclusion that the initial application of force by India was indeed a necessary last resort.

Moving on, then, to the direct application of Indian force on the LTTE, sanctioned by the Indo-Sri Lanka Agreement. Did this represent the correct course of action, from a “last resort” perspective? To deal fairly with this question, it is necessary to take one step back; for it is must be remembered that the Indo-Sri Lanka Agreement was *imposed* on the LTTE. They had minimal input on the formulation of the Agreement's provisions, despite the fact that they were the party from whom, arguably, the greatest concessions were demanded. This situation can be said to have made subsequent conflict inevitable, given the Agreement's vague mandate and the LTTE's notoriety; the Tigers were unlikely to adhere to the Agreement's requirements, and the treaty required Indian to “enforce” these requirements, without giving any further clarifying guidelines. As such, it would seem that this was one point where India too rashly chose a path that would inevitably lead to conflict. Of course, this assessment is being made with the benefit of hindsight – it is not necessarily implied, indeed it is unlikely, that the Indians at the time thought that war with the LTTE would be the result. However, it can be said that this development should *reasonably have been foreseen*. As such, the assertion remains that, at this point, a greater involvement of the LTTE in the negotiations could well have led to a more sustainable solution. This was a juncture where the Indian government chose – in the presence of other alternatives – a path that would inevitably *lead* to the use of force, though not initially doing so. As such, it is important in the discussion of whether or not other options were available that could prevented the use of force.

Nevertheless, given that the Agreement was signed and the IPKF was in place, were the IPKF right to act the way they did? Was the resort to the extensive use of force against the LTTE undertaken only as a last resort? In response to this question, it must be noted that the “peacekeeping force” only got embroiled in combat after the LTTE had proved their intent of continuing their armed struggle. Indeed, given the escalation of violence following the Thileepan fast and the suicides of the LTTE prisoners, it can easily be argued that there were few, if any, feasible alternatives open to the IPKF other than the direct application of force towards the LTTE. As such, also this action can be regarded as a last resort.

We cannot quite leave the discussion at that. For there is one more junction where the Indian government chose the use of force instead of the pursuit of a peaceful solution, namely in the situation following the IPKF capture of Jaffna. Lt. General Depinder Singh reports that signals at this point came through that the LTTE was interested in pursuing negotiations (Singh 2001:118-119). This careful LTTE request was, however, denied by the Indian government, and the path of

attempted military conquest instead chosen. This, I believe, is one of the crossroads – perhaps the most crucial one – where the last resort criterion was bypassed. At this point, it is conceivable that the prospect of a negotiated settlement with the LTTE genuinely represented a feasible option. Indeed, it may have been perfect timing – the LTTE, in the severely weakened state that it was in directly after the fall of Jaffna, could conceivably have been pressured to accept the terms of the Indo-Sri Lanka Agreement, possibly with the addition of some minor concessions. This possibility, however, was forsaken in exchange for the prospect of total military victory – presented, by some, as falsely imminent at the time (ibid.:119). The ensuing two years would show that the decision to attempt to impose a military solution was a poor one, as the Indians got bogged down in a classical insurgency struggle of the kind that history shows only too well is nearly impossible to win.

Summing up the last resort assessment, it seems that India again achieved only a somewhat mediocre “score” on this criterion. The Indian decision-makers surely indicated a patient and peaceful intent initially, pressing for a political settlement for several years. They proceeded to attempt the peaceful shipment of humanitarian aid in 1987 when the humanitarian situation in Jaffna had deteriorated significantly, only applying force when it became clear that only this would persuade the Sri Lankan government to allow the provision of aid and halt the military offensive. Once intervention was a fact, however, India on several occasions pressed forward too rashly, arguably bypassing opportunities to attempt non-violent solutions. Firstly, the exclusion of the LTTE from the discussions leading up to the Indo-Sri Lanka Agreement to a great extent ensured that the LTTE was unlikely to adhere to the treaty, and as such that military conflict with them was inevitable. Furthermore, following the IPKF capture of Jaffna, the decision to pursue total military success instead of capitalizing on the victory to force the Tigers to the negotiating table greatly increased the likelihood of a drawn-out and bloody conflict. At these two points – particularly at the latter – the Indian choice of “resorting to force” can be said to have been a conscious choice made in the presence of other alternatives that might conceivably have ensured a more peaceful outcome, not a choice forced upon them as a perception of “last resort.”

5.3.5 Proportionality

Following the precedent of the previous chapter, let us again recall that the proportionality criterion has two main interpretations. Firstly, it asks whether the application of force was a proportional response to the wrong being rectified, and, secondly, it asks whether the action as a whole produced a “surplus of good over harm.” As in the previous case, the first question in my opinion can be answered in the affirmative. The Indian intervention took the shape of a series of escalating actions, all, arguably, proportional responses to ongoing developments. In response to

humanitarian suffering, the Indian government sent humanitarian help. In response to the denial of permission to send this help, they sent it forcibly. In response to an escalating war, the Indian government offered a compromise solution and the provision of troops to guarantee the solution. In response to LTTE non-compliance to the proposed solution, military force was applied against the LTTE. All these actions can be seen as proportional responses to preceding developments.

To move on to the more problematic second aspect of the proportionality question, then, did the Indian intervention lead to a proportional amount of good over harm? As mentioned in the previous case, this question is never easily answered. For while “harm” is relatively easily measured in for example numbers of casualties, refugees, or costs, “good” is far less easy to operationalize. Furthermore, weighing the two entities against each other to a great extent represents trying to compare the incomparable. The most intuitive way of otherwise determining whether or not an action has led to a “surplus of good over harm” is to compare the outcome of the action with the hypothetical outcome had that action not taken place – not an easy exercise. Nonetheless, let us attempt to come up with a conclusion to this aspect of the proportionality criterion, using these two approaches. First, we will study some estimated statistics, attempting to weigh these against a perceived amount of “good caused.”

Let us first, then, examine the “harm” caused by the Indian intervention – keeping in mind, of course, that all statistics of this sort are characterized by a certain degree of uncertainty. The most reliable statistic is probably that of the Indian death-toll – conventionally estimated at around 1,200, a figure that is higher than the number of Indian soldiers estimated to have died during the invasion of East Pakistan in 1971. The number of Sri Lankan civilian lives lost as a result of the Indian intervention is more disputed. One article cites the particularly accusatory claim that “[t]he Indian army... wound up killing as many Tamil civilians in Jaffna alone in one month as did the Sri Lankan army and its security forces in a year” (Kodikara 1989:721); a controversial and intriguing claim, no doubt, but unfortunately presented without reference to any specific numbers. Another article quantifies the number of civilian deaths, estimating that the IPKF war led to around 6,000 civilian deaths – comparable to the “hundreds” claimed by the same source to have died in Jaffna as a result of the Sri Lankan Army's offensive in 1987 (Beyer 1990, Weisman 1987). Moving on to the number of LTTE fighters killed – curiously, it is uncertain whether this should be considered “good” or “harm” owing to the somewhat contradictory nature of the intervention – this number is also highly uncertain, and varies from 800 (Beyer 1990) to around 1,500 (Ghosh 1999:145).

In addition to the casualties, the IPKF's operations are estimated to have led to a significant amount of internal and external refugees – a total of around 415,000, by one estimate (Peiris 2000:349). On another note, the Muslim minority – a relatively small group in Sri Lanka who had

previously been largely outside the island's ethnic conflict – was increasingly targeted by the LTTE during the latter parts of the 1980's, in part as a result of LTTE suspicions of Muslim-IPKF cooperation (ibid.:356-358). This led to the forcible expulsion of an estimated 65,000 Muslims from the areas of LTTE control in 1990 (ibid.:357). Most significantly, however, is the long-term “harm” caused by the Indian intervention, reflected in the apparent hardening of attitudes and general loss of faith in the possibility of a sustainable political settlement that followed in the intervention's wake. This pessimistic sentiment manifested itself soon after the IPKF pullout in the shape of an unprecedented escalation in the scale of the conflict between the Sri Lankan Army and the LTTE. Of course, it is dangerous to posit a direct causal link between the Indian intervention and the post-intervention escalation. However, it is safe to conclude that the Indian intervention, at the end of the day, did not serve to diffuse the civil conflict.

Let us then look at the “good” that resulted from the intervention, and assess whether this can be said to justify the cost paid, or outweigh the harm caused. The intervention initially halted an offensive that was causing substantial humanitarian suffering in northern Sri Lanka. However, the halted offensive was soon replaced by a fresh offensive by the Indian forces, with precisely the same objective as the former and presumably many of the same side-effects. The intervention did expel the LTTE from the Jaffna peninsula and much of northern Sri Lanka – only to see, however, that the LTTE returned once Indian troops pulled out. The truth, sadly, is that one struggles to find positive effects of the intervention that were truly enduring. One can, perhaps, point to some of the concessions made to the Tamil cause in the Indo-Sri Lanka Agreement – such as, for example, the recognition of Tamil as an official language, which definitely represented a correction of a historical injustice. However, when one views the sum of the harm caused by the Indian intervention in the context of what was achieved in positive terms by the intervention, one is very hard pressed indeed to find any favorable balance of good over bad.

This pessimistic assessment along the proportionality criterion can possibly be tempered by the counter-factual argument. For what were the prospects for the Sri Lankan conflict if India had not intervened? Is it possible, despite the above conclusion, that the situation in Sri Lanka – the humanitarian situation, in particular, seeing as we are dealing with the question of humanitarian intervention – was better off following the Indian intervention than it would have been had the intervention not taken place? Maintaining the standard reservations, I would propose that the humanitarian situation was not likely to have been significantly worse without the Indian intervention. Nor would it, admittedly, likely have been much better – it is likely that the Sri Lankan Army, instead of the Indian Army, would have captured Jaffna but ended up fighting

against a bitter, enduring guerrilla resistance from the LTTE (much like what has, indeed, happened since).

One alternate scenario condoning the intervention that *might* be envisioned is that the Sri Lankan government, barring the Indian intervention, would not have been able to quell the radical Sinhalese uprising in the South (as such, the quelling of the JVP might be seen as a unit of “good” indirectly resulting from the Indian intervention). For Jayewardene, and Premadasa after him, were only able to apply the necessary force vis-à-vis the JVP after the Indian troops had taken up the fight against the LTTE, freeing the Sri Lankan Army for action in the south. Had the radical JVP uprising gained even more pace than it already had, the results might have been devastating for the entire population of Sri Lanka – already, the JVP's terrorist activities were creating great fear and instability throughout the south of the country. Had they, in some fashion, obtained a greater amount of political influence through these activities, the results would have been a further radicalization of the policy towards the Tamils, a fearful prospect for the Tamil population. As such, then, it is *conceivable*, through this admittedly uncertain hypothesis, that the humanitarian situation in Sri Lanka would have been worse off had the Indians not intervened in 1987.

This possible scenario notwithstanding, it must be stressed that any such reasoning is purely hypothetical, and highly uncertain. Returning to a general perspective, it seems necessary to conclude that the Indian intervention, by most reasonable interpretations of the term, cannot be said to have been proportional in the sense of creating a positive balance of good over harm. It seems, sadly, that little enduring good came out of the action, despite the high price paid. Although one might render the proportionality criterion fulfilled by its first interpretation – that the Indian intervention, in its many manifestations, represented a proportional response to the issues at hand – we must conclude, then, that the intervention comes up well short in the general balance of good over bad.

Again, however, much of the above argumentation has been retrospective in nature. It is necessary, like in the previous chapter, to attempt to maintain a focus on what could reasonably have been presumed at the time to have been the prospects for the future. The counter-factual portion of the above section to a certain extent did that. The next discussion, however, will do so more explicitly. We move on, then, to a discussion of the final criterion, that of reasonable hope of success, keeping in mind the close connection in which this criterion must be seen with the proportionality requirement.

5.3.6 Reasonable hope of success

The final “prudential” criterion used in this thesis is of great importance in this case, particularly so because the intervention, by all reasonable measures (as we have just reiterated) was a failure. The question then becomes: was this failure foreseeable? India intervened to resolve the ethnic conflict, initially attempting to implement a political compromise. When the proposed solution looked difficult to achieve because of the LTTE's opposition, India attempted to implement it by forcefully defeating the LTTE. This also failed, and following the IPKF pullout the conflict in Sri Lanka assumed previously unprecedented proportions. The important question, here, is whether or not there from the outset was any reasonable hope of success. Given the nature of the development of the intervention, the criterion can be dealt with in two separate questions. Firstly, did the political solution that was attempted implemented by the Indo-Sri Lanka Agreement have reasonable prospects for succeeding? And secondly, given the failure of the former, did the military campaign against the LTTE have reasonable prospects for success?

Starting with the first question, it is relevant again to recall the history of unsuccessful Indian attempts at encouraging a negotiated settlement between the conflicting parties prior to 1987. Notably, a substantial portion of the blame for this failure must be ascribed to the reluctance of the LTTE to negotiate on the demand for a separate state (De Silva 2000:50). Knowing this, it can be said that the Indian government was naïve indeed to assume that the LTTE would accept the terms of a treaty that required them to disarm without having met some of their main demands. Perhaps the Indian government assumed that the LTTE would be so grateful for having been saved by the Indians from defeat at Jaffna that they would gladly accept whatever settlement the Indians proposed. Given the ferocity with which the LTTE had pursued their goal of independence, however, and the length of time which they had fought, this seems, again, a naïve assumption. Such was the proven nature of the LTTE – they were not eager to compromise. The reluctance towards compromise was made no better by the fact that the LTTE were not included in the negotiations surrounding the Indo-Sri Lanka Agreement. At this point, it is possible that even just a formal consultation with the LTTE and a few further concessions to their cause – even just symbolic ones – might have greatly improved the prospects for a successful political solution. As it was, it seems fairly obvious now that the Tigers were never likely to accept the Indo-Sri Lanka Agreement, and indeed LTTE condemnation was not a long time coming. When it did, India quickly abandoned the prospect of coming to an agreement with the Tigers and subsequently also India ended up replacing negotiation with military might.

It seems reasonable to propose, then, that the successful, *peaceful* implementation of a political compromise had poor prospects for success in the political climate of 1987 Sri Lanka⁵⁰ – particularly so given the LTTE's unconciliatory stance and their exclusion from the critical negotiations. The Indians soon arrived at the same conclusion, and embarked on a military campaign to decisively defeat the LTTE. What, then, were the chances of this succeeding?

It seems that even Indian military leaders were pessimistic about the prospects for total military success over the LTTE at the time when the crucial decision was made; or at least they claim to have been so, neatly shifting the blame after the fact over on the “uninitiated” politicians. Consider the words of Lt. General Depinder Singh – as we recall, the Overall Force Commander of the IPKF up until 1988: “My recommendation... was that we must not go in for the hard option because, if we did, we would be stuck in an insurgency situation for the next twenty years” (Singh 2001:74-75). Later, he generalizes his unheeded advice, making an interesting point for a military man: “I was quite clear in my mind that no insurgency has ever been or can ever be settled militarily” (ibid.:107-108). At least by his own admission, then, Singh urged caution in attempting to pursue a total defeat of the LTTE because of the poor prospects for success, only to be overruled by the Indian High Commissioner⁵¹ and subsequently the central government, who in the end decided to proceed with an all-out assault on the Tigers. The High Commissioner, on his side, admitted that they had perhaps underestimated the strength and resilience of the LTTE in making this decision, but placed much of the blame for the military failure on “inept” generals (Rediff.com 2000). Regardless of who is to blame, it is clear that, even at the time, important actors recognized that the prospects for a successful military solution to the LTTE “problem” were far from good.

Although all these above factors were important, one factor, in my opinion, stands out as a vital variable, greatly influencing the probability of success for the entire intervention: the lack of popular support in Sri Lanka for the Indian intervention. As we have seen, popular support for India was lacking from the majority of the Sinhalese population from the very beginning, and popular support from the Tamils quickly evaporated as military success remained elusive. Without the support of the target population, the task of conquering an enemy that to a great extent operated by blending in with civilians was near impossible. The LTTE soldiers' tactics of disappearing by disguising themselves as civilians were therefore highly effective, as the civilians they were hiding

⁵⁰ It should be noted that, upon close inspection, the Indo-Sri Lanka Agreement in many ways represented a balanced treaty in that it gave considerable concessions to the Tamils on some major grievances, while maintaining the imperative of Sri Lankan unity and requiring the cessation of armed insurgency. As such, an analysis of the *content* of the treaty would posit that it was a solution that in and of itself had a decent chance of success – perhaps even more so had the situation been handled a little differently. This possibility, though interesting, cannot be dealt with at length in the present thesis, for reasons of space.

⁵¹ Who himself, interestingly, also later professed to believe that “application of military force will never bring peace” (Rediff.com 2000).

amongst were not likely to give them up. Often, no doubt, such civilian siding with the LTTE was the result of brutal coercion – but the effects of the support on the prospects for IPKF success remain. The effects of the lack of support upon the IPKF morale is likewise easy to imagine. Without popular support in the areas where they operated, without support of the government which had initially invited them into the country, and eventually without the support of their own government, the IPKF troops had poor prospects of being able to pull off a decisive victory over such a difficult adversary. The eventual lack of popular support for the intervention in India doubtlessly further negatively affected the IPKF morale and determination. This general lack of popular support, then, to a great extent further diminished the prospects for Indian success in the intervention in the Sri Lankan conflict.

In sum, then, the prospects for success in 1987 were never great. The Indian troops were presented with a difficult and uncertain objective in the first place – ordered to fight the people that they had initially come to protect, something which initially diminished the Indian soldier's will to fight. Consider the following statement by Lt. General Depinder Singh (2001:106):

What we did was sending the IPKF to battle with commanders and men emotionally attached, even sympathetic, to the LTTE. It took time to develop hatred and it is only when there is hatred for the opponent that the soldier will give his best.

Coupled with the LTTE's uncompromising attitude and guerrilla tactics, as well as the lack of general popular support for the intervention, it is not surprising that the Indian intervention failed.

5.4 Tentative Conclusions

Summing up, India did not fare as well in this case as they did in the former. In fact, conclusions on all six criteria were at best only reluctantly positive. The sum of the assessment must be that the Indian intervention in Sri Lanka in 1987-1990 was of a highly questionable moral status, despite the introductory observations that apparently indicated otherwise. This, in itself, is an interesting observation that warrants further examination in the next chapter.

We see, significantly, that the relative importance of the different criteria appears to differ between the two cases. The key points of contention in the current case seem to be the criteria of just cause, right intentions, and reasonable hope of success, whereas the main questions in the previous chapter pertained to the criteria of intentions, legitimate authority, and last resort. This, combined with the diverging conclusions on the determined overall moral status of the two cases, leaves us with the prospect of a highly interesting comparative analysis, on which we will now embark.

In conclusion to this chapter, one recall the analogy drawn between the Indian experience in Sri Lanka and the American experience in Vietnam. Is this a fair comparison? On the basis of the accepting verdict of the cause in the present case, one might say that the negatively loaded label of “India's Vietnam” is excessively harsh. However, some striking similarities are still obvious when reviewing the way in which the two cases played out, and particularly two such similarities stand out: in both cases, the intervening country seemingly did not quite know what it was getting itself into, and, once in, both India and the US attempted to push for military solutions that, given the self-sacrificing fervour of their respective enemies, were never forthcoming. This may be where both these interventions most fatefully erred.

6. A Comparative Analysis

I have concluded, based on a Just War framework, that the Indian intervention in Bangladesh in 1971 was a morally just intervention, in spite of the possible criticism that can be leveled against it in light of some of the applied Just War criteria. Similarly, I have concluded that the Indian intervention in Sri Lanka in 1987-1990 was of a far more dubious moral character, in spite of the fact that certain aspects of the intervention initially seemed to point to a positive conclusion. As such, the previous two chapters have to a great extent answered the first part of the research question posited in the introduction to this paper: “were the Indian interventions in Bangladesh in 1971 and in Sri Lanka in 1987 morally just?” What remains, then, is to approach the second part of the research question, namely to assess which factors were the most important in determining the moral status of the respective interventions. Doing so will require a comparison of the two cases, and such a comparison will also allow us to make some cautious generalizing observations about the relative importance of the different Just War criteria in the context of the contemporary discussion regarding the question of humanitarian intervention.

6.1 Setting up the discussion: an initial comparison

As an introduction to this discussion, we can recall the table introduced in Chapter 2. Modifying this table to fit the specific context of the current discussion, and filling it in based on the results of the previous two chapters, we can get a rough overview over how the two interventions compare to each other along the six criteria and in outcome. This will allow us to determine which issues are most interestingly pursued in the ensuing analysis. It must be recognized that the moral verdicts presented in this form are un-nuanced simplifications, and as such the table's content must not be seen outside the context of the detailed assessments and more balanced conclusions made in the two preceding chapters. Nonetheless, this table in its simplicity does allow us to see the major discrepancies between the two cases, and thus forms a good platform for setting up the comparative analysis. The moral assessments, then, can be summarized in the following way:

Table 6.1: Summary of the moral assessments

	Bangladesh	Sri Lanka			
Just cause	+	+			
Right intentions	/	-			
Legitimate authority	+	/			
Last Resort	/	/			
Proportionality	+	-			
Reasonable hope of success	+	/			
Moral assessment	+	/			
<table border="1"> <tr> <td>+ = fulfilled</td> <td>/ = partially fulfilled</td> <td>- = not fulfilled</td> </tr> </table>			+ = fulfilled	/ = partially fulfilled	- = not fulfilled
+ = fulfilled	/ = partially fulfilled	- = not fulfilled			

Let us, on the basis of this summary, make some introductory observations. First of all, it can be noted that the Bangladesh intervention was found to be morally just despite failing to fulfill convincingly the right intentions and last resort criteria. This observation is important as it initially points towards the conclusion that these two criteria need not necessarily be fulfilled in order for an intervention to be morally just. In other words, they need not be considered “threshold criteria” – an observation that, in the case of the intentions criterion, runs contrary to classical Just War thinking (if not contemporary thought) where, as we recall, the virtue of “pure intentions” by some was even raised *above* the virtue of a just cause (de Vitoria 1557 in Reichberg et.al. 2006:322).

Likewise, we can note that the Sri Lanka case was not found to be unambiguously morally just, despite having received a positive assessment of the cause (although even this conclusion, we recall, was made under some doubt). This immediately serves as an indication, if one was needed, that a just cause is not enough for a just intervention, a fact that right from the start justifies the need for the remaining Just War criteria and a discussion around these.

Furthermore, from the table we can see that the assessments of the two cases differ on four of the criteria, in addition to the final conclusions. A logical inference is therefore that one of these four criteria, or a combination of the four, was the decisive factor in the respective final assessments. As such, we have already been given a possible indication of the answer to the second part of the research question that this chapter seeks to answer. The table, then, based on this observation warrants a closer comparative analysis specifically of the authority, intentions, proportionality, and reasonable hope of success criteria.

These important observations in mind, we can engage in the final analytical portion of the thesis, comparing the respective cases both on the individual criteria and on the sum of their performance vis-à-vis the criteria-set as a whole. The first section will take the shape of a general comparative discussion surrounding each individual criterion. The goal of this discussion is to see what can be learned from juxtaposing the two empirical cases, particularly in terms of determining each individual criterion's relevance and relative importance to the specific discussion of humanitarian intervention, but also in terms of determining the thresholds for rendering the specific criteria fulfilled. Special attention should be accorded to the discussions of the criteria where we have found discrepancies between the two cases. At the end of the section, we will explicitly approach the second part of the research question, drawing some conclusions regarding which criteria seemed to be the most decisive with regards to the determining the respective overall assessments of these two particular cases.

In addition to indicating which criteria seemed to be the most decisive in these specific cases, the comparison of the cases will provide us with indications of the best way to understand each criterion in the general discussion regarding humanitarian intervention, and allow us to make some inferences regarding each criterion's relative importance in a more general sense. The output of the comparative analyses on the individual criteria will therefore be a revised interpretation of the criteria-set specific to the topic of contemporary humanitarian intervention, that draws from the current case-study evidence. The revised interpretation of the criteria will be presented in the thesis's concluding chapter. As we will discuss in the conclusion, this revised criteria-set might later usefully be applied to and tested on other empirical cases.

We proceed, first, by analyzing each criterion in a comparative light.

6.2 Weighing the importance of the criteria: a comparative analysis

6.2.1 Just Cause

When it comes to the criterion of just cause, we can note already from the outset that there can little doubt about the centrality of the just cause criterion in any discussion of just war or humanitarian intervention. It is hard to envision a just intervention without a just cause. If any criterion truly deserves the label of “threshold criterion,” it seems intuitive that this is the one. Nonetheless, we have already indicated that a just cause on its own is not enough to render an intervention morally just. As such, it is necessary to weigh the importance of this criterion relative to the others. It has further been indicated in several places that a strong cause for intervention can

allow a potential intervenor to “get away with” lesser achievements on other criteria. The totality of the comparative analysis should shed some light on the extent to which this is the case.

Let us first, however, consider what the case studies tell us about the threshold for rendering the just cause criterion fulfilled. In this regard, it is significant to note that both cases were accorded positive assessments of the causes for intervention despite their dissimilarities (although the positive assessment was only granted under considerable doubt in the second case). Precisely this makes for an interesting platform for a discussion around this criterion: the two cases were in many ways different in character, yet the causes for intervention in both cases passed in the face of close moral scrutiny. What lessons can we learn from this?

Let us recall the guidelines proposed by contemporary Just War thinkers for the circumstances that can legitimately warrant humanitarian intervention: the much-cited requirements of “conscience-shocking” events or “supreme humanitarian emergencies.” That such conditions were present in Bangladesh in 1971 is of no doubt. Labeling the situation in Sri Lanka in 1987 conscience-shocking, however, was found to be far more of a stretch. Nonetheless, the assessment ended up cautiously accepting the cause, to a large extent as a result of the legacy of suffering and the obvious injustices that had been imparted on the Sri Lankan Tamils over a longer period of time. The Tamils had been the victims of discriminatory government policies, large-scale ethnic rioting most notably in 1983, and since then they had also been caught in the cross-fire in a civil war which had only grown in intensity and in 1987 was threatening the civilians of Jaffna with both blockade and military offensive. When the focus was simply on the number of civilian deaths caused by the government offensive – taking a “snap-shot” of the situation in 1987 in isolation – the situation did not appear to be particularly “conscience-shocking.” However, when we applied a wider perspective, put the events of 1987 in their long-term context, and, vitally, focused on the *prospects* for the Sri Lankan Tamils – both short-term and long-term – the situation assumed wholly different proportions.

The main observation emerging from this is that the conventional focus on the need for “conscience-shocking” situations can be somewhat misleading. For in the contemporary international setting, the threshold for a conflict to be truly conscience-shocking is disconcertingly high. Thus it is all too easy to conclude in a situation like the one in Sri Lanka in 1987 that this is just another civil conflict where just “a few” civilians are caught in the crossfire. The fact that this case upon close inspection was deemed worthy of intervention speaks for the advocacy of a somewhat wider interpretation of the just cause criterion in cases of potential humanitarian intervention.

We will pick up this thread below. For now, there is one perceivable – arguably fundamental – difference in character between the two cases that becomes clear when they are viewed in comparison, which it seems relevant to briefly explore at this point. For one striking difference between the two cases is that in Bangladesh, the Indian Army was intervening to stop humanitarian suffering in a case where this suffering was clearly being caused by *one* side acting in injustice, whereas in Sri Lanka the Indians intervened in order to end suffering caused by a conflict in which both sides had a certain element of justice in their cause – the LTTE on the basis of justifiable historical grievances, the Sri Lankan government as a result of the LTTE's secessionist claims and terrorist legacy. Both the LTTE and the Sri Lankan government and Army had directly inflicted significant civilian suffering, the LTTE as a result of their terrorist tactics and use of child soldiers and human shields, and the Sri Lankan Army as a result of their military offensives and not least the indiscriminate blockade tactic. In Bangladesh, the intervention halted the Pakistani Army's crackdown, which was quite clearly unjust; in Sri Lanka, the intervention initially halted the Sri Lankan Army's offensive, whose moral stature might to a much greater extent alternately be seen as just or unjust – as indicated, notably, by the fact that the Indians themselves deemed an anti-LTTE offensive just only a few months later. Should this make a difference in a moral assessment of the cause for intervention?

Let us examine the positive argument first. For conceivably, the limit for “tolerable civilian suffering” in a civil conflict could, from a moral perspective, depend on the nature of the *cause* for the civilian suffering. If, for example, the suffering is being caused by a military campaign that is clearly immoral in nature – as was arguably the case in Bangladesh, where the Army cracked down brutally on the civilian population – it seems that even a relatively modest number of civilian casualties could legitimately prompt calls for intervention. Conversely, the principle of double effect in mind, one could argue that the limit for tolerable civilian suffering should be significantly higher in cases where this suffering is the result of a justifiable military campaign by one party. The ICISS⁵², for example, makes a distinction in this spirit in its discussion regarding just cause, positing “the threat or occurrence of large-scale loss of life” due to acts of an intentional or systematic nature as a just cause for intervention, but resisting “any temptation to identify as a ground for military intervention human rights violations falling short of outright killing or ethnic cleansing, for example systematic racial discrimination, or the systematic imprisonment or other repression of political opponents” (ICISS 2001:32-34). The core of the argument is that there *is* a moral difference between civilian deaths occurring due to intentional, planned targeting of civilians, and civilian deaths occurring, for example, as a side-effect of the pursuit of political opponents.

⁵² The International Commission on Intervention and State Sovereignty, cited in Chapter 3.

Such an argument seems particularly salient in “borderline” cases of humanitarian suffering, where the civilian casualty-toll is not quite of “supreme emergency” proportions – such as the Sri Lanka case. Should not, particularly in such cases, the *nature* of the threat to the civilian population matter in a moral assessment?

Applying this line of reasoning to the intervention in Sri Lanka in 1987 one gets two different perspectives. One perspective might say that the Sri Lankan Army offensive, although causing regrettable civilian suffering, was the only way to defeat a violent secessionist movement unwilling to compromise and notorious for its use of terrorist tactics, suicide bombers, child soldiers, and even using civilians as “human shields” on the battlefield. The military action against the LTTE was thus necessary, also from a moral perspective, and blockade a necessary tool to weaken them in advance. The ensuing humanitarian suffering was regrettable, but an unavoidable result of this just pursuit, and as such this humanitarian suffering did not warrant foreign intervention.

Another perspective might argue that the Sri Lankan government over the course of several decades had treated the Tamils in a highly unfair and discriminatory fashion, and that the Tamils thus had legitimate historical grievances which they were fighting to set straight. Furthermore, the Sri Lankan government had shown an unwillingness to negotiate and had chosen the hard option over granting the Tamils autonomy that they should justly have been endowed. The humanitarian suffering, in this view, was a result of an unjust military campaign by the Sri Lankan Army, and thus it can be said that it was justifiably stopped by the Indian intervention.

The main problem with this line of reasoning is that, in most civil conflicts of this nature, there is some degree of justice perceivable in the causes of both parties.⁵³ Each side would posit that civilian casualties are unintentional, and likely that they are a result of the opposing side's unjust tactics. Furthermore, each side would likely maintain that a certain “sacrifice” of civilian lives is just given their “noble” cause. What makes humanitarian interventions distinct from other applications of force is that they are undertaken upon considerations for the well-being of the civilian population alone. Who is right or wrong in the conflict being intervened into is as such of secondary significance, important only insofar as the answer to this might dictate what comprises a suitable response to the situation. Particularly in cases of humanitarian suffering of a significant, but

⁵³ Many classical Just War theorists have dealt with the question of whether or not a cause can be just on both sides, for example Francisco de Vitoria. The latter declared that a conflict could in principle only have one just side, continuing that “[i]f it is agreed that both parties have right and justice on their side, they cannot lawfully fight each other, either offensively or defensively” (de Vitoria 1557 in Reichberg et.al. 2006:322). However, a side fighting for an unjust cause can be excused if they truly and reasonably believe that their cause is just – i.e., if they “wage war in good faith” (ibid.). Such might, conceivably, be said to have been the case in the conflict being discussed: both sides at least reasonably believed to be fighting for a just cause.

not quite “emergency” scale, it is tempting to start looking at who are the “good guys” and who are the “bad guys” when seeking to determine the justness of the cause for intervention. Although the intuitive response, venturing too far into who is “right” and who is “wrong” in complicated civil wars will not necessarily lead to answers, given the complex nature of many such conflicts. And crucially, the civilians will be suffering all the while.

Space does not allow a closer exploration of this topic. The last word in the current discussion might be that cases where one side is clearly right and the other clearly wrong are from a purely *practical* perspective far easier to resolve resolutely, as well as being easier to justify in the international opinion – the former point, if not the latter, being seconded by a comparison of the two chosen cases. In situations where both sides of a conflict have some perceivably just claims, and are fervently committed to achieving their goals, the prospects for an intervenor of finding a sustainable solution that will provide long-term security for civilian populations are far poorer than in cases where there is a clearly identifiable “villain” who can be pursued and defeated. As such, this discussion might figure in an assessment of the reasonable hope of success criterion as well as in an assessment of the cause for intervention. For now, suffice it to say that it seems that this will not change the main conclusions of the preceding discussions regarding the question of just cause, at least at first glance. It may be argued that an assessment of the cause in the Sri Lanka case could vary depending on one's perspective of the conflict as it looked at the time, as the short discussion above illustrated. Nonetheless, at this point I stand by my previous assessment and the justifications for this assessment as presented in the previous chapter, presenting this discussion only since I see it as an interesting point for moral reflection, springing from an apparent difference that becomes clear when viewing the two analyzed cases in comparison.

It seems that this small digression has led us back to the same conclusion we made above: that the important thing is to look at the *prospects* for the target civilian population. If it is perceived that humanitarian suffering is the result of a situation that eventually will lead to a sustainable solution to a conflict – i.e. that the suffering is a “temporary side-effect” of an on-going conflict that is likely to be resolved in the foreseeable future – the cause for intervention is weak. The converse, of course, is equally true: if it seems that the suffering will persist or increase if nothing is done, the case for intervention is strengthened. The humanitarian focus, then, must be maintained, all other considerations being important only insofar as they help determine the best course of action to ensure a sustainable improvement in the humanitarian situation in the country into which intervention is being considered.

Let us attempt to sum up the current discussion. We have assumed from the outset that the just cause criterion is of high importance, and have proceeded to discuss what a comparison of the

cases may tell us about the threshold for rendering this criterion fulfilled. It seems that the discussion is leading towards a conclusion that the threshold for intervention could reasonably be somewhat more lenient, or at least somewhat more widely interpreted, than has seemed to be advocated by some of the Just War thinkers cited in chapter 3 – given, to be sure, that the other criteria are satisfyingly fulfilled. For it is important (a point that we will return to later) to stress that we have a *set* of criteria at our disposition. It is not the case that one may legitimately intervene whenever there is a just cause for intervention; the other criteria must be satisfactorily met before any potential intervention is morally justifiable. With this in mind, it is still important to maintain a reasonably high threshold for determining just causes for intervention, to be sure. However, it is equally important that a general reluctance towards intervention does not lead us to ignore causes that may be called just upon close moral examination, on the basis that the detrimental humanitarian situation at first sight is not “sufficiently conscience-shocking” – as was initially our conclusion when examining the Sri Lanka case, particularly when seen in comparison to the Bangladesh case which featured such staggering numbers of civilian casualties.

At the very least, then, the need for an increased focus – in practice, not just in theory – on the humanitarian *prospects*, rather than the humanitarian situation, seems to be a lesson emerging from the comparison of causes. This is a conclusion that corresponds well with the opinions of, among others, the mentioned ICISS, which posited that just cause for humanitarian intervention could be the “large-scale loss of life, *actual or apprehended*... or, large scale “ethnic cleansing,” *actual or apprehended*” (ICISS 2001:32, emphasis added). In the Sri Lankan situation, it can be argued that the large-scale loss of life, and, indeed, large-scale ethnic cleansing, could reasonably be apprehended, and as such we were right in labeling the cause for humanitarian intervention as just.

As we touched upon in chapter 3, despite the existence of certain guidelines, determining the justice of the cause in cases of humanitarian intervention will unavoidably be a case of making subjective judgments. In a sense, it is a case of trusting one's “moral instinct” – and when doing so, it is important, in my opinion, not to be misled by according excessive weight to the mentioned guidelines. When it comes to making assessments of what constitutes suffering of a “large scale,” or to an even greater extent determining what scale of suffering can be “apprehended,” subjective judgments will play a large part. The comparison of the two case studies has illuminated again the danger of focusing solely on for example statistics of death tolls or refugee numbers in determining when intervention is warranted. Such a focus on “scale” by such uncertain measures of the term can easily be misleading, a conclusion that speaks against the quantification of measures for when the cause for intervention is just. One needs to take a closer look at the *nature* of the conflict, and particularly the *prospects* for the civilian population, when determining the justness of the cause for

humanitarian intervention. It can be said that the assessment of cause in the second case was somewhat lenient. However, in my opinion, this leniency is acceptable in light of the fact that we have an additional five criteria that can contribute to an overall moral assessment. The *sum* of the assessments along the entire criteria-set will together decide on the final moral verdict. With this in mind, much might be gained from not being overly strict in determining cause for intervention – particularly when what is being debated is humanitarian intervention, aimed at protecting the well-being of significant amounts of civilians.

That being said, a reasonable implication of this is that a lenient adjudication of the cause should entail a strict judgment on the remaining criteria – and vice versa. We will keep this in mind as we move on to the remaining criteria.

6.2.2 Right intentions

The intentions criterion stands out as a particularly contentious issue in this thesis. For it is on this criterion that the two cases combined fared most poorly. Furthermore, the intentions criterion was one of the two points where the Bangladesh case, despite its overall positive assessment, failed to stand up to scrutiny in an entirely convincing way. Based on this, one might posit that the status of the intentions criterion as a “threshold criterion” is in danger of being outdated and irrelevant – as some contemporary Just War thinkers would argue. Is this a reasonable conclusion? Let us examine this question, in light of the evidence from the case studies, with a view to determining the relative importance of this criterion in a contemporary setting.

It might be illuminating first to ask some realistic questions. Would the situation in 1971 have escalated into an all-out Indian invasion of East Pakistan had it not been for the existing animosity between India and Pakistan? And would the Indian government ever have gotten so directly involved in the Sri Lankan conflict if there had not been important strategic motives for doing so? Generalizing the questions: will humanitarian suffering in other countries – regardless of the scale – ever be enough to persuade other countries to intervene if they themselves do not feel directly threatened, or have nothing to gain for themselves through intervening? At least based on the evidence of the two presented cases, no affirmative answer is forthcoming. Let us briefly revisit the possible intentions of India in both interventions to consider this question.

There seems to be little doubt that humanitarian sentiment played an important part in motivating the Indian government to act to resolve the Bangladesh crisis in 1971. That being said, Indian decision-makers largely portrayed their actions as a response to aggression, rather than a response to humanitarian suffering, possibly an indication that intervention was seen as necessary in self-preservation rather than necessary as a result of sympathy for the Bengali plight – the

humanitarian suffering being an augmenting, perhaps legitimizing factor in the Indian decision to intervene, but not on its own a decisive one. Indeed, there is no question that India needed to do something about the refugee situation, also with a view to preventing political and social turmoil in the state of West Bengal. On another note, the situation in 1971 presented the appealing opportunity of drastically reducing the strategic threat posed by Pakistan, and discrediting the ideology on which that state was built. Thus, the Indian intervention might reasonably have been motivated to a substantial extent by an urge for strategic and symbolic victory over Pakistan.

Also in the Sri Lanka case there were obvious ulterior motives for the Indian decision-makers for getting involved in the conflict. Among these were particularly electoral concerns and a concern for public opinion in southern India, and, most notably perhaps, strategic concerns on a higher level. In this case, the prominence of these “non-humanitarian” motives was made quite clear by the explicit pursuit of strategic gains at the point of intervention. Thus, also in this case, the humanitarian intention was by no means the only motivating factor for intervention.

It would certainly be a stretch, then, to claim that the humanitarian argument alone motivated India to act in any of these cases. In addition to the inevitability of ulterior motives in all humanitarian interventions, a fact that is reinforced by case study evidence, the practical difficulty of ascertaining the primacy of different intentions speaks against the inclusion of a strong intentions criterion. For, although one may attempt to read intentions out of actions, it is hard to arrive at decisive conclusions regarding which intentions the intervening party genuinely had in intervening. Given this difficulty, and the recognition of the need for a certain degree of self-interest in order for a country to genuinely want to risk the lives of its own soldiers, the contemporary relevance of the intentions criterion may well be questioned.

Based on these observations, then, there is a fairly appealing case for disregarding the intentions criterion altogether. To this case can be added the argument that the criterion was originally formulated in the context of the religiously grounded philosophy of Middle Age Europe, the thought being that one would ultimately have to answer to God for one's wrong intentions. There was at the time little real need to determine the intentions of warring parties – they would be determined, in time, by the ultimate moral judge. This line of reasoning is hardly relevant, politically speaking, in the contemporary debate.⁵⁴ We can further usefully revisit one major argument specific to the topic of humanitarian intervention, presented in chapter 3: if an intervention can potentially lead to an improved humanitarian situation, does it really matter for which intentions it is undertaken? The case for disregarding the criterion is certainly appealing.

⁵⁴ It must be noted, of course, that such concerns still may very well motivate individual decision-makers in their choice of actions, either consciously or subconsciously. That being said, the line of reasoning as a whole is of little relevance to the contemporary practical discussions surrounding the topic.

However, a solid case can still be made for not totally dismissing this criterion – also in light of the case study evidence. Crucial for this case is the maxim that intentions can be read out of actions, which has been much invoked in the preceding moral assessments. Turning this around, the implication is that intentions *influence* actions. Precisely for this reason, it is immediately evident that intentions *must* matter. The wholehearted pursuit of a positive humanitarian outcome will more likely lead to such an outcome than the wholehearted pursuit of selfish gain on a humanitarian justification. The further removed an intervenor's genuine intentions are from the humanitarian motive, the greater is the likelihood that the intervenor will eventually be led onto a path ultimately detrimental to the achievement of a sustainable solution to the humanitarian situation. This is something that one may arguably say is supported by a comparison of the case studies: in Sri Lanka, the apparent prominence of “selfish” intentions perhaps led India to intervene somewhat hastily, and their unpreparedness and subsequent faulty decision-making led them into a three year-long unsuccessful quagmire; in Bangladesh, on the other hand, the humanitarian motivation was strong, and the intervention was both successful and efficiently terminated once the stated goals had been achieved.

It seems, then, that while the presence of some degree of self-interest is a necessary precondition for intervention, too much self-interest can ultimately distract from the just cause of alleviating humanitarian suffering – thus in the process removing the entire justification for the intervention. Note here the implicit connection between cause and intention: the just cause of humanitarian intervention can be rendered void by the presence of intentions too clearly divergent to this goal. Intervention in pursuit of strategic goals is not considered morally just per se. Why should then “humanitarian” interventions that are actually intended as nothing other than the pursuit of strategic goals be considered morally just? It is clear that intentions, at least to a certain extent, still must matter.

Returning to a concrete comparison of the two cases, one might conclude that, while ulterior motives were present in both instances, the intervention in Sri Lanka was more obviously motivated by intentions that were separate from the humanitarian intention than was the case in the Bangladesh intervention. Indeed, it is plausible to suggest that the pursuit of strategic and self-interested goals more decisively shaped the Indian actions in 1987 than the pursuit of a sustainable peace in Sri Lanka; the Indo-Sri Lanka Agreement certainly seemed to serve the former pursuit better than the latter (a fact that is clear at least in retrospect, to be fair). As such, it is only in the Sri Lankan case where the presence of “wrong” intentions might reasonably be said to have had a truly detrimental effect on the collective moral assessment. In the Bangladesh case, ulterior motives were present, but seemed largely to “supplement,” or at the very least not counteract the humanitarian

intentions. In the Sri Lanka case, on the other hand, the humanitarian motives, although prominent in the official discourse, seem in reality to have been somewhat secondary to larger political and strategic considerations when India chose to step up its involvement in the conflict. It seems, then, that the threshold for crossing from “acceptable” intentions to “unacceptable” intentions lies somewhere in between the two cases.

The sum of the present discussion is that the intentions criterion – somewhat contrary to my opinion from the outset – still matters, primarily as a result of the inevitable link between intentions and actions. That being said, it must be recognized that even in cases where the humanitarian suffering is truly of “emergency” proportions, countries without selfish incentives are not likely to condone intervention – an indication of which was given by the lack of support for intervention in Bangladesh in 1971 from many of the world's countries who had no direct interest in the conflict. People today may bemoan the failure to intervene in Sudan, as people bemoaned the failure to intervene in Rwanda in 1994; but it seems reasonable that these failures to a large extent can be ascribed to the lack of selfish incentives for the rest of the world in intervening. Quite frankly, the “Western” states, the most likely candidates to be able to pull off a successful intervention, had little to gain for themselves in a potential invasion of Rwanda, and have little to gain today from a potential invasion of Sudan. One may posit, then, that ulterior motives – or “non-humanitarian intentions” – will always be present in cases of humanitarian intervention; indeed, their existence can reasonably be said to be a necessary precondition for intervention in the first place. It seems to be a reality that only rarely will a country put its own soldiers at risk simply to “save strangers”. Thus, it makes no sense in a discussion of humanitarian intervention to require totally “pure” intentions – such a requirement might entail that no intervention could be regarded as morally just. It is still important, however, to ensure that any selfish intentions not *overshadow* the humanitarian intention. If they do, this is likely to become apparent in the ensuing actions and choices of the intervenor, as the focus is more easily shifted away from the goal of achieving a humanitarian result as positive as possible.

It seems, then, that we have arrived at the conclusion that the intentions criterion should be maintained, but not firmly as a “threshold” criterion. With this tentative conclusion in mind, we will proceed to examining the remaining criteria.

6.2.3 *Legitimate authority*

We move on, then, to a comparative analysis of the two cases on the legitimate authority question. Also on this criterion, the two case studies have presented us with the prospects of an intriguing discussion, in this case because the results of the two case studies were conclusions

regarding this criterion that were opposite to the conclusions implied in the introduction to the thesis. India, in the Bangladesh intervention, was found to have a morally sound foundation for intervention, despite the intervention's illegality and lack of international support. Conversely, India in the Sri Lanka case was found to have a morally weak foundation for intervention, at least as the Indian involvement intensified, despite the intervention's legality and lack of international condemnation. Let us examine some implications of these conclusions for the relevance of the authority question, assessing whether this ultimately speaks for a diminution of the criterion's status in the total set of criteria. The above observations point to a need to clarify the appropriate relationship between what I have referred to as “moral authority” – by which I mean legitimate authority from a moral, rather than simply formalistic perspective – and the entities of legality and international support.

To deal with the topic of legality first, the debate usually revolves around the question of obtaining of a UN mandate for intervention. Much can be said about the discussion regarding the requirement of UN backing for a humanitarian intervention, and we dealt briefly with the debate in chapter 3. When reviewing the case study evidence, however, especially the UN's conduct during the Bangladesh crisis clearly shows the moral problem that inheres in the fact that the organization is no more than a collection of member states – member states who put their own interests first. At the Security Council, as otherwise, states are happy to put their own strategic interests before moral and ethical considerations, as was made abundantly clear during the Bangladesh crisis in 1971. Although the UN might be the closest one has to an international “conscience keeper” at present, the Security Council, the UN’s mightiest organ, consists today of states such as China and Russia (not to mention the United States), states that cannot be expected to take purely moral, self-effacing stands on political issues. Particularly China (but also Russia in many contexts, for example in the recent Kosovo debate) has been an adamant opponent of intervention in the “internal affairs” of other states, as it was in the Bangladesh case, and it requires no great stretch of the imagination to presume that this is in part because China does not wish other states to look too closely at China’s own internal affairs. With such states presiding over Security Council vetoes, and the structure of the Security Council being such that it so easily can fall victim to political squabbling, it is hard to determine what, *at present*, makes the UN a supreme moral judge in questions of intervention. In other words, legality, in the sense of a UN mandate, does not necessarily entail moral authority. The Bangladesh case study simply reinforces this point.

In the Sri Lanka case, legality was found not through a UN resolution, but even less ambiguously through a bilateral treaty signed by the respective heads of state. Even here, however, India was found lacking in moral authority; the Agreement that legitimated their continued presence

was deemed to be of a weak moral stature as a result of the involuntary nature of the Sri Lankan acquiescence to the treaty, and the treaty's disregard for the belligerent rights of one of the conflict's main parties, the LTTE. The sum of the case studies thus clearly shows that legality has no necessary connection to the moral stature of the authority to intervene. From a moral perspective, authority to apply military force cannot – at least by my reasoning – come from treaties and resolutions alone.

A reasonable assumption might be that moral authority can be derived from international support. Also on this note, however, it seems that the two case studies in combination have indicated quite clearly that global or majority opinion has little moral impact in questions of humanitarian intervention. The Bangladesh case, again, provides the most illustrative example, as the authority criterion was assessed in the positive, despite the condemnation of large sections of the international community. Likewise, the ambiguous assessment of the Indian authority to intervene in Sri Lanka persisted despite the notable lack of international condemnation for the Indian actions.

Whence, then, might authority to intervene stem? Applying a Just War perspective, one may posit that such authority must stem from the people who are in need of protection. One might say, then, that the authority issue in these cases essentially boils down to the following question: who could India legitimately claim to have been representing in the two cases? In Bangladesh, the Indian soldiers could legitimately claim to be fighting on behalf of the Bengali people. In Sri Lanka, although the initial intervention could legitimately claim to be in support of the Sri Lankan Tamils, and was accepted as such, their subsequent alienation from both the Tamils and the Sinhalese meant that they could only justly claim to be fighting on behalf of themselves. Let us explore the implications of this observation.

In cases of self-defense, the authority to apply force can unproblematically be accorded to each sovereign state. The basis for this authority, according to Just War thinking, is the responsibility to protect one's own citizens. However, when what is at issue is humanitarian intervention, where one is fighting to allegedly protect citizens of another state, the authority to do so should logically stem *from those citizens*. It is thus hard to say that the legitimate authority criterion is fulfilled if the target populations do not support the foreign intervention. One might easily see the moral case for positing that a United Nations mandate is equivalent to legitimate authority to intervene, as the United Nations is intended to be the highest body responsible for the protection of human rights. However, the evidence particularly from the Bangladesh case in this thesis significantly weakens the moral authority of the United Nations, as a result of the clear indications of the primacy of strategic concerns over moral concerns even in a situation where the cause for intervention, even at the time, was very solid.

In many ways, then, the case studies lead towards a view that popular support in the target country might serve as an indicator of what has been called “moral authority” – legitimate authority from a moral rather than a formalistic perspective. Although by no means constituting a scientific indicator of the morality of the authority to intervene, the reaction of the population being intervened in support of can definitely illuminate the question. In Bangladesh, the Indians were heralded as liberators and heroes by practically the entire population; in Sri Lanka, the Indians were unpopular from the very beginning amongst the Sinhalese, and increasingly so also amongst the Tamils as the Indians started taking on the Tamil representatives and the intervention wore on unsuccessfully. In Bangladesh, India was found to have a morally strong foundation for intervention – in Sri Lanka, morally weak.

Is it the case then, that for an intervention to be moral the “strangers” must *want* to be rescued by the intervenors? From a Just War perspective, legitimate authority to apply force, as we have discussed, stems from the responsibility of protecting *people* – primarily the people of your own state, but also equally of people living in a state that is not protecting them, but on the contrary causing them harm. It can be said, and has been (for example by the Secretary-General's High Level Panel Report 2003:4), that the sovereignty over these people is legitimately ceded to a higher entity, and with it, then, the authority to apply force. We have seen, however, that the oft-invoked “higher entity” of the United Nations does not necessarily possess any inherent “moral authority.” Does not then an outside state, acting on its own authority as a unified, sovereign state, and with the unambiguous support of the people being intervened in favor of, represent a legitimate authority?

This, then, might actually be where we see one of the most crucial differences between these two cases. For in the Bangladesh case, the Indian intervenors had the wholehearted backing of the Bengali people, along with the support of the Indian populace. In Sri Lanka, the opposite was the case, if not immediately then certainly after the intervention progressed. As such, analysis of the two chosen case studies has led to my largely seconding the views of some contemporary Just War thinkers on the subject of legitimate authority, presented in chapter 3. The sum of the argument can be said to be that a solid moral foundation is more important than a strong legal basis.

But where does this observation leave us with regards to the question of legality? The legal debate around formulating a new right to unilateral intervention has persisted at least since the time of the Bangladesh intervention. This discussion, in my opinion, misses the mark, from a moral perspective. For a legal system with all its rigidities can never adequately capture the moral complexities inherent in a topic where each and every case will be the product of a unique set of circumstances. And any legal right to unilateral intervention would open the way for misuse. Two

lawyers writing on this topic in the wake of the Bangladesh intervention recognized this fact, succinctly placing the debate in its correct context:

Any rule permitting the unilateral use of force to prevent genocide or protect justice and democratic development is an invitation to big power intervention on the opposite sides of a wide range of domestic disputes. Yet we freely admit that we can imagine situations in which a humanitarian rescue would be highly desirable.... Like civil disobedience, however, this sense of superior “necessity” belongs in the realm not of law but of moral choice, which nations, like individuals, must sometimes make, weighing the costs and benefits to their cause, to the social fabric, and to themselves. (Franck & Rodley: 1973:304).

In sum, I believe that a comparison of these two cases on the authority criterion has decisively shown that legal authority to intervene has no necessary link with moral authority to intervene. In a moral assessment, it is the latter that is of greater importance. Moral authority might remain a somewhat hazy issue, and determining its existence requires the inevitable dose of subjective judgment – helped along, perhaps, by the useful indicator of popular sentiment in the target country. Nonetheless, with this perspective in mind, it seems clear based on the case study evidence that the authority criterion, in its non-formalistic sense, should retain its threshold status.

6.2.4 Last resort

We now move on to a discussion of the “prudential” criteria – the criteria intended to advocate reluctance to use force, not necessarily from the outset being viewed as “threshold” requirements. So what of the last resort criterion? In both cases, we determined that India at several junctures might conceivably have attempted to use diplomacy ahead of force – in Bangladesh, military support for the Mukti Bahini came at a very early stage, arguably offsetting any real possibility of a peaceful settlement, and in Sri Lanka total defeat of the LTTE was decided upon at a point when negotiations might have been possible. It would be a stretch to propose that India was driven to use force by “extreme necessity” – at least in the Sri Lanka case where the cause for armed intervention in the first place was more reluctantly accepted.

Significant again is the fact that the Bangladesh intervention as a whole was found to be morally just, despite having fallen somewhat short of convincingly fulfilling this criterion. This observation initially indicates that the criterion does not hold a decisive influence on an overall assessment. Furthermore, this was one of two criteria where both cases received a relatively similar assessment,⁵⁵ despite their divergent overall assessments, which again speaks for the criterion's

⁵⁵ Of course, there are significant nuances that must not be ignored. India was “forced” into action in the Bangladesh case as a direct result of the refugee crisis, and did not have the same freedom of action then that it did in Sri Lanka in 1987. However, in common for both the cases with regards to this criterion is that some steps were arguably taken as last resorts – i.e. the eventual invasion of East Pakistan and perhaps the initial intervention in Sri Lanka and the initial offensive against the LTTE – while India in both cases “rushed” to the use of force ahead of pursuing non-military approaches that might conceivably have succeeded.

limited influence. Let us revisit the relevant debate regarding this criterion, setting it up against the case study evidence to evaluate whether this tentative conclusion of the criterion's limited importance seems reasonable.

The case for disregarding the last resort criterion resort, referring back to chapter 3, largely revolves around the assertion that, in the context of humanitarian intervention, the sooner the intervention occurs, the more lives it is likely to save. The question then becomes, is it really reasonable to require that all non-violent means that might conceivably have a positive outcome be tried before armed intervention, potentially allowing civilians to die in the interim? As such, the argument goes that strict adherence to the criterion in fact may lead to the loss of more civilian lives – hardly a moral outcome, certainly in the context of humanitarian intervention. Given the points at which we have determined that the Indians *could* have shown more restraint in the respective cases, let us, in light of the current discussion, see if they *should* have shown more restraint.

In the Bangladesh case, I see no moral reason why the Indians should have delayed getting involved with the Mukti Bahini in the initial stages after 25 March in order to maintain a neutral stance and wholeheartedly pursue a diplomatic settlement. This assertion does not mean that this might not conceivably have been a *possible* solution to the problem⁵⁶; it is made, rather, on the basis of what I perceive as the obvious justice of the cause for intervention. There was after 25 March little doubt that this was a situation that could justifiably be responded to forcefully, from a moral perspective, because of the sheer scale of the humanitarian suffering. As such, even though the rapid recourse to military support of the Mukti Bahini does seem to indicate a certain degree of opportunism – India using the occasion to impart a military blow on Pakistan – I see no reason why this should render the actions unjust.

In Sri Lanka, on the other hand, I believe that India might rightly have chosen negotiations ahead of further military pursuit of the LTTE; this is not, however, primarily because of the moral value that lies in the reluctance to use force, but rather a result of the obviously poor prospects for successfully imparting upon a guerrilla group like the LTTE decisive military defeat. The LTTE, being a group that had a long history of willingness to sacrifice its adherents in suicide attacks, and blending in with the civilian population to escape capture, was always going to be an extremely resilient force. It is this fact, rather than a perception of the moral superiority of non-military means in all situations, that leads me to conclude that India should have halted for negotiations with the Tigers after capturing Jaffna.

⁵⁶ The assumption being that, had India maintained a neutral stance, and had the Mukti Bahini not been supported and encouraged to pursue a military struggle, some political solution may have been rendered possible. Many, of course, would disagree with this assumption, given the brutal nature of the military crackdown of 25 March. I myself am inclined to disagree on the same basis. However, the point is hypothetical, and serves, at the very least, as an interesting basis for a discussion around the criterion of last resort.

In other words, in the questions that are raised by the criterion of last resort, I find that arguments promoted by other criteria carry more weight in both cases than considerations of reluctance to use force in general. The criteria of just cause and reasonable hope of success, rather than primarily an invocation of the principles underlying the criterion of last resort, are the reasons for my policy recommendations in the two analyzed cases. Again, these observations imply a secondary status of the last resort criterion.

It is intuitive from a moral perspective to accept, *particularly* in the context of humanitarian intervention, the argument of “the sooner the better:” the sooner intervention occurs, the more lives it is likely to save. I hold this to be a solid objection to according too much significance to the last resort criterion in the collective criteria-set, also following an examination of the case study evidence. For, *given* that the other criteria are sufficiently fulfilled, I see no moral objection to intervening sooner rather than later. Again, this proposition applies particularly to the context of humanitarian intervention when what is at stake is the saving of human lives. This is not to say, of course, that this criterion is completely irrelevant. Particularly if one avoids taking the strictly chronological view of the requirement – that all non-violent options be *attempted* before intervention – and instead subscribes to a more systematic view of the requirement – that all non-violent options be *seriously considered* prior to intervention – the criterion still holds significant value as a statement of moral principle. That being said, I maintain that the moral argument of a general reluctance to use force, perhaps somewhat paradoxically, is stronger in other contexts than it is in the context of humanitarian intervention. In the context of humanitarian intervention, if the cause is deemed just, the authority deemed legitimate, and, as I will now discuss, the hope of creating a positive humanitarian outcome is strong, I see no reason, from a moral perspective, why one should systematically delay implementing the course of action that will best serve the relevant suffering population.

We move on, then, to the final two criteria, which, as will become clear, I perceive as highly important in the context of humanitarian intervention.

6.2.5 Proportionality

The proportionality criterion has seemingly held a somewhat secondary status in the preceding assessments. However, I believe that this criterion in many ways holds a key position in the humanitarian interventions discussion. For precisely the prospect of creating more good than harm – creating, for example, a sustainable humanitarian situation at the loss of an acceptable amount of soldiers (and civilians) as a result of an application of armed force – is the principle thought underlying the entire concept of humanitarian intervention.

As several Just War thinkers cited in Chapter 3 rightly point out (f.ex. Fixdal & Smith 1998), and as has become apparent in the case studies, this criterion is to a great extent connected with the reasonable hope of success criterion, and particularly so in the context of humanitarian intervention. For the proportionality criterion stresses that an intervention must potentially create more good than harm, and precisely this surplus of good, in the form of an alleviation rather than an aggravation of humanitarian suffering, is the “success” which the concept of humanitarian intervention aims at achieving, the success that the final criterion requires there to be a reasonable hope of achieving. The two criteria must thus be seen as interconnected. That being said, they have been presented as separate criteria and been dealt with separately in the preceding case studies, and will thus initially be dealt with separately at present.

Let us examine the case-study evidence, comparing the two cases. Applying a retrospective perspective, we found that the Indian intervention in the Bangladeshi conflict was integral in the ending of humanitarian suffering of a near unprecedented scale in a sustainable way, at the cost of a relatively small number of lives. On the other hand, the Indian intervention in Sri Lanka ultimately produced little “good,” and caused a considerable amount of “harm,” both in terms of Sri Lankan civilians killed, Indian soldiers killed, and in terms of the legacy of the intervention in its entirety – a hardening of attitudes and intensification of the Sri Lankan civil war.

We have thus seen that India *did* produce a surplus of good over harm in the Bangladesh case, but *did not* in Sri Lanka. One might argue that what is more relevant in a moral assessment is what the prospects for this were at the time of intervention. Precisely this is dealt with under the next criterion. For now, one can say that the failure to achieve a sustainable, positive humanitarian change is a particularly grave failure in instances of humanitarian intervention. For, in addition to constituting a failure, it is a failure that essentially removes the entire basis for intervention. Humanitarian intervention is only justified insofar as it aims to reverse a poor humanitarian situation. If an intervention costs more lives than it saves, or worsens rather than improves the humanitarian situation, the entire justification for the intervention dissolves. From a *jus ad bellum* perspective, certainly, what is vital is to look at the prospects at the time when the decision to apply force was made. That being said, from a more holistic moral perspective, the failure to produce a surplus of good over harm in this particular context is particularly grave, regardless of what the prospects for this were at the time of intervention.

When it comes to the proportionality requirement in itself, then, I believe that the failure of the Indian intervention in Sri Lanka to produce a surplus of good over harm was an integral factor influencing the final moral assessment, much as the success of the Bangladesh case on this note was integral in ensuring a positive final assessment. Generalizing, I believe that this criterion deserves

greater attention in the particular context of humanitarian intervention, particularly when coupled with the next criterion: that of reasonable hope of success.

6.2.6 Reasonable hope of success

We come, then, to the final criterion, that of reasonable hope of success. This is one of the criteria where the two cases differ to the greatest degree, and as such I also believe it to be one of the criteria most decisively influencing the end result of the two moral assessments. Specifically, the unconvincing result on this criterion for India in the Sri Lankan case, in my opinion, is one of the main factors contributing to the ambiguous overall result. Let us briefly revisit the two cases in a comparative light, before proceeding with a discussion of the criterion's relative importance.

It is hard to envision any situation of this sort where the prospects for military success would be better than they were in Bangladesh in 1971. The geographical separation of the two wings of Pakistan, the near total alienation between the population of the East and the government of the West, the relative strength of the Indian Army, and the unabridged support of the Bengali people for an Indian intervention created conditions extremely conducive to the success of the intervention. The comparison to the situation in Sri Lanka is telling: there, the Indians faced popular opposition from both sides of the conflict they were intervening into, and eventually from their own population as well. This further impeded the already difficult task of attempting to resolve a complicated ethnic conflict with fuzzy geographical boundaries and an eventual adversary whose tactics were asymmetric and whose adherents had a high willingness for self-sacrifice, thus according to the organization a practically infinite tolerance for loss. The sum of these factors doubtlessly rendered the possibilities for total military victory quite slim, despite the arguably reasonable terms of the Indo-Sri Lanka Agreement that they were officially there to uphold.

Based in part on these case-study observations, this criterion in my opinion stands out as a somewhat “neglected” criterion in more general terms, an argument that I will also return to in the concluding chapter. Indeed, the prospect for success can conceivably be one of the factors that can most obviously “moderate” the need for a strong status on the other criteria, at least in the specific discussion of humanitarian intervention; for if there is a good possibility of achieving a sustainable improvement of a poor humanitarian situation, from a moral perspective this presents a formidable argument for intervention – given, at least, that intentions are not obviously wrong, the authority not obviously lacking, or the cause blatantly unjust.

Again, the need for strong chances for success seems particularly important in “borderline” cases, such as the Sri Lanka case. Consider, then, the following (somewhat bold) proposition: where one is faced with a humanitarian situation of poor, but not quite “emergency” proportions, *the*

prospects for genuinely achieving a sustainable improvement in the humanitarian situation through armed intervention should to a great extent determine whether or not intervention is morally justifiable. The goal of humanitarian intervention is to alleviate humanitarian suffering, preferably in the long term. The morality of this goal is hard to question. If one has the possibility of doing so – with strong chances of success – the pursuit of this goal, even in cases that are not necessarily “conscience-shocking” on the Bangladesh or Rwanda scale, cannot, in my opinion, be labeled immoral, given that the intentions held by the intervening party are not contrary to or totally devoid of humanitarian sympathy, and the basis on which the action rests is not devoid of moral authority, and the cause not obviously immoral.

It deserves clarification, of course, that this does not mean that each and every situation where a conflict is causing humanitarian suffering can legitimately be intervened in. However, there is in my mind a fundamental moral contradiction in systematically setting the stability of the international system before the protection of the basic well-being of significant numbers of citizens to the degree that it often is. It is particularly victims of neglected conflicts in strategically peripheral areas that are often left defenseless – an unsustainable situation from a moral perspective. Not expecting or demanding that all conflicts creating considerable humanitarian suffering be intervened in, I am simply positing that humanitarian intervention could conceivably be morally just in more cases than are currently being considered prospects for such intervention – particularly in cases where the chances for actually affecting sustainable, positive humanitarian change through armed intervention are obviously strong.

I support the above proposition by another proposition: the intervention in Sri Lanka *could* have been morally just. What rendered it of a doubtful moral stature was not by my assessment the lack of a genuinely “conscience-shocking” event, but rather that the *basis* for the intervention, in terms of moral authority and in part intentions, was not sufficiently just, and – most importantly, I believe – that the chances for success, in terms specifically of generating a lasting surplus of “good” over “harm” – imperative for humanitarian intervention to be justified – were quite poor. Thus, the intervention was rendered of a dubious moral character, largely as a result of a failure to sufficiently fulfill the proportionality and reasonable hope of success criteria. In short – with reference to the research question – these two last criteria were vital in deciding the outcomes of the respective moral assessments.

6.2.7 The overall perspective

Let us at this point attempt to summarize the above discussion by explicitly approaching the second half of the research question: what seem to be the most important factors in determining the

moral status of the two interventions? It seems, based on the above discussions, that the probability of success – measured in the potential for achieving a surplus of humanitarian good over harm – was a vital factor, along with the question of legitimate authority – measured in terms of *moral* authority – and, finally, to a somewhat lesser extent, the question of intentions. It is thus, as expected, the combination of the four criteria where there were observed discrepancies between the two cases, that ultimately proved decisive in the accordance of the final moral assessments. Among these four, it seems that the above discussions can be interpreted as according significant value particularly to the assessments on the reasonable hope of success and legitimate authority criteria.

These observations will form the basis for the final chapter, where I will present a cautious generalization of the results from the comparative analysis. What should be noted at this point – a fact that becomes clear from the above discussions, and has been alluded to at several points – is the degree to which the Just War criteria constitute a complementing, responsive *criteria-set*. In the Bangladesh case, it is clear that the obvious justice of the cause allowed us to ignore the presence of ulterior motives and the Indian propensity to intervene by supporting the Mukti Bahini from an early stage, rather than wait until all diplomatic maneuvers were exhausted. In the Sri Lanka case, however, the cause was only just accepted, and as such the presence of ulterior motives and the shortcomings on some of the other criteria attracted additional focus. As such, then, it is imperative that the criteria be seen in light of the *criteria-set* as a whole, and it is apparent that the question of cause, as expected, is a central question to which the assessments on other criteria will be inextricably linked.

With these observations in mind, I will proceed to the final chapter of this thesis, where I will, among other things question the applicability of the results of the preceding chapters. I will in conclusion present a revised interpretation of the *criteria-set*, based on the results of the above comparative analysis, and specific to the topic of humanitarian intervention.

7. Conclusion

This thesis has concerned itself with assessing and comparing two cases of “humanitarian intervention” in light of a philosophical framework stemming from the Just War Tradition. The cases have been analyzed in light of the classical Just War criteria of “just cause,” “right intentions,” and “legitimate authority,” and the three “prudential” criteria of “last resort,” “proportionality,” and “reasonable hope of success.” The focus has been on South Asia, as the thesis has analyzed and compared the Indian interventions in Bangladesh in 1971 and in Sri Lanka in 1987-1990, with a view to determining the two interventions' respective moral status and, ultimately, weighing the relative importance of the individual criteria in the chosen framework following a comparative analysis.

While the Bangladesh intervention was found to be morally just despite the apparent existence of ulterior motives, indicated, among other ways, by the arguably hasty recourse to military support for the Bengali secessionists by India, the Sri Lanka case was found to be of a more ambiguous moral stature, largely as a result of the *prominence* of ulterior motives, the weak moral foundation of the authority underlying the intervention, and, crucially, the poor prospects for success. The comparative analysis assessed that the reasonable hope of success criterion – to be seen in close connection with the proportionality requirement – was one of the most crucial points of divergence between the two cases. Likewise, the interventions differed significantly with regard to the extent to which they could legitimately claim “moral authority” to intervene, and significant weight was subsequently accorded to the requirement of legitimate authority.

As repeatedly mentioned, the intention of this thesis has been more than just to look at these two cases in isolation; it has been to see, through comparing these two cases, what can be learned of applicability to the question of humanitarian intervention in general. In conclusion, then, we will outline the specific points of potential applicability to the general moral and academic discussion regarding the topic of humanitarian intervention that can be said to have emerged from the comparative analysis in the previous chapter. Before we do this, however, it seems relevant at this concluding point to take a step back and evaluate the relevance of the chosen approach, readdressing the motivation behind the thesis so as to reaffirm its “academic value.” This, again, will reaffirm the significance of the ensuing generalizing propositions.

7.1 Moral assessment: a futile activity?

The discussion in chapter 2 confirmed the applicability of the chosen research method from a methodological perspective. On another note, however, it can easily be argued that the act of retrospective moral assessment is an act without great practical relevance. It seems a forthcoming criticism to conceive of the current thesis as a case of “moralizing,” perhaps with a certain value in itself, but ultimately without influence on or real relevance to the actual, practical sphere of decision-making in international politics. Such a view would greatly detract from the relevance of seeking generalizable results. Thus, to preempt possible criticism, and as the aforementioned is a view that I would strive to oppose, this topic presently warrants discussion.

What is up for assessment more generally is the relationship between the general perspectives of “morality” and “realism” – the former being a natural part of the sphere of popular debate, but not necessarily of the sphere of practical politics, which some would claim to be monopolized, rather, by the latter. The question, basically, is: should the act of moral assessment have any room in contemporary international relations? Or should moral debate, in a “Machiavellian” fashion, be restricted to other spheres of social life?

Approaching this debate could be a thesis in itself, and only a brief allusion to the debate is in order at present. What is most significant to reassert is that, from the outset, a fundamental assumption of this thesis has been precisely that morality and realism should not be regarded as opposing perspectives. A more fruitful interpretation, I would argue, is rather that the two activities of interest-calculation and moral assessment should be mutually tempering; a normative analyst should never lose sight of practical realities, nor should a practical statesman lose sight of morality. With regard to the balance between the two entities, it is certainly not unduly cynical to assert that conclusions about what is morally right or morally wrong at best form only part of the explanation for international policy choices. The fact that self-interest frequently seems decisive is a point that has been reinforced by the presented case studies. This observation does not, however, detract from the importance of the activity of normative analysis, nor does it indicate that the activity is totally lacking in real influence – as is also indicated by the same case studies, where it was determined that the humanitarian motive, if not on its own sufficient to affect action, can reasonably be held to have genuinely moved the relevant decision-makers, to a significant degree arguably shaping the ensuing turn of events in both cases.

Returning the discussion to the issue at hand, then, this thesis is not envisioned as a pointless “moralizing” monologue, nor is it expected to have a ground-breaking practical impact. It is intended to be a contribution to a normative discussion regarding a highly salient practical, political issue, and it is intended as an advocacy of the importance of including moral considerations in an

arena that seems easily overshadowed, especially in the political discourse, by considerations of self-interest. Moral discussion, furthermore, is particularly important in the specific context of the question of humanitarian intervention – the whole basis for which essentially rests on a moral foundation. Thus, the act of performing moral assessments and upholding moral discussions around this topic, such as this thesis has aimed to do, must be no means be seen as futile.

One final question in this line of argument is whether the judgment of cases on the basis of the Just War criteria-set is a necessarily retrospective activity. If that is the case, the practical value of the activity can rightly be questioned. On this note I would argue that the prospect of evaluating *prospective* cases is precisely the motivation for undertaking the analysis of former cases; based on moral assessments of cases of humanitarian intervention in the past, we may be provided with guidelines for when and how rightfully to approach such cases in the present. It is a classical case, in a sense, of “learning from history.”

Moral assessment, then, is neither futile from a practical point of view nor necessarily retrospective. The discussion has led us back to the underlying proposition of the Just War Tradition: that the realm of warfare can and rightly *should* be infused with morality. Warfare may never be wished-for in itself, but it may, also from a moral perspective, be necessary, the only morally just course of action under certain circumstances. In the contemporary setting, the tool of warfare can be used to produce morally positive results *particularly* in cases of humanitarian intervention – such as in the Bangladesh case presented above. It can also, however, create instability, bitterness, and increased suffering if used without due consideration and foresight, even in cases where action is justly called for – as was proven by the Sri Lanka case. One need do no more than look at the comparison of these two cases, then, to realize the importance of maintaining a structured moral discussion regarding the issue of humanitarian intervention.

7.2 Applying the thesis: a revised interpretation of the criteria-set

The general relevance of the thesis reiterated, I will proceed to discuss what specific insights the comparative analysis has yielded, and indicate how these insights might relevantly be applied to contemporary or prospective cases of humanitarian intervention. This will be done by summarizing the main propositions emerging from the comparative discussion by presenting a revised interpretation of the applied set of Just War criteria, which reflects the answers that have been arrived at regarding the relative importance of each individual criterion and the thresholds for rendering the respective criteria fulfilled. The revised criteria-set in many ways represents the contribution of this thesis to the general discussion regarding humanitarian intervention, the “output” of the thesis, so to speak. The aim of the following is to present a framework that can be

applied to make accurate moral assessments of other interventions or potential interventions basing themselves on a humanitarian justification – an act of “analytical generalization,” to cite the discussion in chapter 2.

7.2.1 Revised interpretations

To start off, the conclusions of this thesis show that the just cause criterion is still, as expected, of vital importance in any moral assessment of a humanitarian intervention. However, the requirement of a “humanitarian emergency” of large proportions can, in my opinion, be relaxed in cases where the situation at hand represents the culmination of long-term suffering that threatens to further deteriorate – as was the case, indeed, in both the analyzed instances, but most decisively so in the Sri Lanka case. The important aspect when assessing a cause for humanitarian intervention, in short, is to look at the *prospects* for the affected population. Although the importance of preventing a situation of destabilizing unilateral interventionism remains highly cogent, from a moral perspective I believe it to be equally dangerous to off-handedly dismiss appalling humanitarian situations as “standard violations of human rights that tragically occur,” to cite Wheeler, simply because the scale of the situation at first sight is not sufficiently shocking. *If* one maintains that the other important Just War criteria are adhered to – that is, if one strives to view cases in light of the criteria-set as a whole – I see no *moral* obstacle to being somewhat more “generous” in the acceptance of causes for humanitarian intervention, particularly in cases, such as the Sri Lanka case, where the situation demanding attention is not quite of “emergency” proportions, but nonetheless represents the culmination of a long-term pattern of oppression that threatens to further deteriorate. Saying that a cause is just does not, for example, necessarily imply that there is a reasonable hope of success. If the criteria-set functions as it should – with the criteria interacting to produce a balanced assessment of an intervention or potential intervention from all the different perspectives simultaneously – the just cause criterion might in my view feasibly open for a slightly wider conception of what constitutes a “conscience-shocking” act.

Regarding the authority criterion, there is a need to focus assessments based on this criterion more on moral authority – measurable, in part, through popular support for intervention in the target country – than legal authority, which at present, in my opinion, holds excessive value at least in the popular, if not necessarily in the normative academic discourse. This is not to say that legality or international support is totally devoid of moral value; arguably, however, too much importance seems to be accorded to the presence or absence of an international mandate in cases of intervention. As both the Bangladesh case and the Sri Lanka case showed, other factors can easily be far more important in determining whether the moral foundation for intervention was strong, and

the legality of an intervention can by no means guarantee the moral stature of the authority on which the intervention rests. The requirement of reflexiveness to the criterion of just cause, as many of the cited Just War thinkers also point out, must be reiterated: the clearer the cause, the less the need for a clear authority – and vice versa. In all cases, however, the need for a strong moral authority for intervention should remain a “threshold criterion.”

One of the most significant changes to the criteria-set that I would propose with regard to the specific context of humanitarian intervention is the merging of the criteria of proportionality and reasonable hope of success, and the accordance of “threshold” status to this combined criterion. Firstly, the justification for this merger is that in cases of humanitarian intervention, success should be defined precisely as the accomplishment of a surplus of “humanitarian good” over “humanitarian harm.” The case for retaining the two criteria as separate remains strong in other instances of war: for example, if what is at stake is a war of self-defense, success need not necessarily coincide with a surplus of good over harm – success entails victory or survival, presumably at any human cost, and the criterion of proportionality represents an additional requirement, conceptually distinct from the requirement of a reasonable hope of success. However, in the case of humanitarian intervention, success should ideally be equatable to proportionality, and as such a more concise, context-specific criteria-set may be achieved, without the loss of moral substance, by merging the two requirements into a single criterion.

This merged criterion, then, should assume vital importance – for if an intervention cannot produce a positive balance of good over harm, in humanitarian terms, the entire basis for the intervention falls away. The new reasonable hope-of-success criterion, therefore, in my opinion deserves a more prominent status than just that of a prudential criterion in the question of humanitarian intervention. While the criterion might fairly be waived in cases of existential self-defense, the nature of humanitarian intervention is such that an intervention without a reasonable hope of success⁵⁷ – in terms of improving the humanitarian prospects of a suffering population – essentially removes the entire rationale behind the intervention. For intervention without a reasonable hope of success is equivalent to putting lives at risk unnecessarily – not a moral enterprise. As the assessment of the Sri Lanka case has shown, getting involved in a complicated conflict without having good prospects for being able to resolve the conflict is likely to do little more than further inflame the humanitarian situation, simultaneously putting the lives of people that would otherwise have had nothing to do with the conflict – namely one's own soldiers – at risk.

⁵⁷ Note, importantly, that this is not a requirement of an “absolute certainty” of success. This criterion is open, as the others are, for subjective interpretations.

When it comes to the intentions criterion, there is in my opinion a need for a retention and indeed a rejuvenation of this criterion. There is a need for an acceptance of the fact that ulterior motives in the contemporary context in fact represent *necessary* preconditions for humanitarian intervention. This does not, however, need to imply that such ulterior motives should not matter – particularly because, as we have seen, intentions affect actions, just as actions reflect intentions. In a morally just intervention, ulterior motives will unerringly be present, but the non-humanitarian intentions must not run contrary to, nor carry more weight than the humanitarian ones. The obvious primacy of non-humanitarian motives will inevitably lead an intervention onto a path that is, if not directly detrimental to, then at least not optimally conducive to a positive humanitarian outcome. This criterion should, like several of the other criteria, also to a great extent be seen as reflective of the cause – the clearer the cause, the less should ulterior motives matter – given that the other “threshold” criteria are met.

Finally, the last resort criterion should be retained as a prudential criterion, but the comparative analysis indicates that this criterion's relative importance is considerably less than the other criteria. Given, again, that the remaining criteria are satisfactorily met, the unique context of humanitarian intervention renders the maxim of “the sooner the better” quite relevant. The consideration of saving the maximum number of civilian lives possible should, in my mind, go before the general reluctance to use force in situations where waiting to use force might be costly. That being said, the principle underlying the criterion, specifically the requirement of always at least *considering* non-violent means before violent ones *if* the same positive effects can be ensured, remains important.

7.2.2 Summary: minimum requirements for a morally just humanitarian intervention

Let me summarize the above propositions by reproducing the previously presented table one final time. The table below aims to illustrate the relative importance of the separate criteria as proposed by the above comparative analysis based on the two case studies of this thesis. It represents the minimum requirements (in simplified form) for a morally just humanitarian intervention – if the observations from this thesis are held to be universally applicable.

Table 7.1: Revised criteria-set: minimum requirements for a morally just humanitarian interventions

	Morally just humanitarian intervention
(Wider conception of) Just cause	+
(Morally) Legitimate authority	+
Reasonable hope of success (Measured in the potential for causing more humanitarian good than harm)	+
Right intentions	/
Last Resort	-
Moral assessment	+
+ = <i>imperative</i> / = <i>partially imperative</i> - = <i>not imperative</i>	

The table proposes that a humanitarian intervention, in order to be morally just, needs to have a just cause, in the somewhat more widely interpreted sense of the term that I have proposed above. Furthermore, the intervening state needs to have the *moral* authority to act in the way it does – distinct, as has been reiterated by the case-studies, from legal authority. Importantly, the requirement of a reasonable hope of success figures highly on the list. This criterion, moreover, has been merged with the proportionality criterion, as has been justified above, and the combined reasonable-hope criterion *must*, in my opinion, be met in order for a humanitarian intervention to be morally just. The intentions of the intervenor, in this revised set, may not be too obviously negative, but neither need they be exclusively humanitarian in nature. Finally, given that the other criteria are met as posited, the requirement of last resort, in my opinion, is of secondary importance – one may morally “get away with” applying force at an early stage, following the maxim of “the sooner the better.”⁵⁸

Let us briefly view how this revised criteria-set compares to the requirements posited by other Just War thinkers. Wheeler (2000:34) proposes the following requirements for a humanitarian intervention to be morally justified:

⁵⁸ In the table, I accorded the criterion a “-”, implying that the requirement of last resort need not be met in order for a humanitarian intervention to be morally just. This choice was made largely for the sake of illustration – it does not imply that the criterion is of absolutely no relevance – hence its retention in the first place. In cases where the criterion is very blatantly disregarded, i.e. in a situation where an intervention is decidedly rushed into without due *consideration* of other options, this might conceivably place a positive moral assessment in doubt. However, this may just as well be an indication of the primacy of ulterior motives, as was implied in the Sri Lanka discussion. My conclusion remains that in cases where the other criteria are convincingly met, I believe that force might rightly be used even where other paths might conceivably be attempted – hence the “-” in the table: strict adherence to the criterion is “not imperative.”

First, there must be a just cause, or what I prefer to call a supreme humanitarian emergency, because it captures the exceptional nature of the cases under consideration; secondly, the use of force must be a last resort; thirdly, it must meet the requirement of proportionality; and, finally, there must be a high probability that the use of force will achieve a positive humanitarian outcome.

We see that Wheeler's criteria-set differs from mine in the priority accorded to the different criteria, and in the lack of mention of the intentions criteria. This he later justifies largely in the same terms as I have, albeit arguably purveying the sense that his view of the intentions criterion accords it somewhat less importance than mine. Interestingly, furthermore, Wheeler accords significantly greater importance to the last resort criterion than I have done in the current evaluation.

Let us also revisit the criteria posited by Walzer (1977:107) for when humanitarian intervention is morally justifiable. “Humanitarian intervention is justified when it is a response (with reasonable expectations of success) to acts “that shock the moral conscience of mankind.”” Here we see that Walzer, like myself, accords significant importance to the reasonable hope of success criterion. Also Walzer maintains that ulterior motives must be accepted, positing that “[i]t is not necessarily an argument against humanitarian intervention that it is, at best, partially humanitarian, but it is a reason to be skeptical and to look closely at the other parts.” The requirement of reflexiveness between the different criteria in the set, one should note, is reiterated, much as I have attempted to indicate over the course of my own discussions.

In sum, the interpretation of the Just War criteria presented following the comparative analysis of the two chosen cases in this thesis is neither exactly identical with, nor fundamentally opposed to the sets of criteria that are posited by several important contemporary Just War thinkers. This can be interpreted both as an indication of the usefulness of the preceding study, and as an indication of the durability of the requirements posited by the centuries-old Just War Tradition; new perspectives have been uncovered, and old propositions confirmed.

7.2.3 Future research

The importance of the retrospective analyses presented in this thesis becomes clear following the preceding discussions; the comparison of the two cases has allowed us to make some cautious generalizations regarding the relative importance of the respective criteria as well as generalizations regarding reasonable ways to interpret the criteria in this specific context. These generalizations may subsequently be applied to or tested on other empirical material. Future research based on this thesis might thus usefully take one of two paths: applying the revised criteria-set on past cases in order to assess whether the conclusions made in this thesis hold up to other sets of empirical data, or, assuming the criteria-set's relevance, applying the revised criteria-set on present or prospective cases in order to assess whether or not such cases could potentially be

morally just undertakings. The set of Just War criteria, and the revised interpretation of this set, can as such figure as a “check-list” of “what we need to consider before going ahead with an intervention,” a check-list that could potentially save many civilian lives if prudently adhered to.

7.3 In conclusion: putting things in perspective

We have in this concluding chapter briefly summarized the conclusions of this thesis, reviewed the thesis's relevance in a general sense, and examined more specifically how the conclusions from the thesis might contribute to the general academic discussion regarding humanitarian intervention, and might conceivably be applied in future examinations. Let us in conclusion return to review the case studies at hand, “putting things in perspective” so to speak. Doing so might perhaps illuminate precisely why analyzing unconventional cases is important.

In Bangladesh, a massive exodus of refugees more than twice the size of the current population of Norway fled over the borders to India. In the space of 9 months, an estimated 1,5 million people were killed. Compare this, for example, to the estimated 6 million Jews killed during the more than half-decade-long Holocaust, and the sobering scale and intensity of the Bangladesh tragedy becomes quite clear. With this in mind, the fact that India was chastised, not praised, for intervening, might almost be labeled shocking. For an illuminating perspective on the situation, we can cite, again, the Indian authors Ayooob and Subrahmanyam⁵⁹ (1972:290):

Let us ponder over the events of [1971]. Three million people were slaughtered and ten millions [sic.] were driven out of their homes. Do people realize that this was equal to the use of 75 Hiroshima type of nuclear weapons? The international community did very little and one hundred and four nations voted against [India] when it struck back in self-defence after it was attacked and moved to liberate Bangla Desh. The U.S. administration termed the Bangla Desh massacre “an intimately internal matter” and China declared that “the relevant measures taken by President Yahya Khan were the internal affairs of Pakistan”. How can any one trust in this international community...?

What the Bangladesh case amply proves is the degree to which intervention, in certain cases, is no less than a moral imperative – regardless of legality or, indeed, majority opinion.

Despite the erstwhile condemnation, the Bangladesh intervention has subsequently assumed the status of a somewhat “classical” case. The Sri Lanka case, on the other hand, is rarely mentioned in mainstream discussions regarding the question of humanitarian intervention. Why is this so? It is true that the intervention was a failure, and it is equally true that the intervention, as shown, did not convincingly stand up to close moral scrutiny. However, are these the reasons why the intervention, which allegedly involved over 100,000 Indian troops and caused over 1000 Indian military deaths, is forgotten? By the time the latest US invasion of Iraq had reached such

⁵⁹ Who, it should be noted, cite the death-toll posited by the Bangladeshi government.

proportions, it had already long been at the forefront of a bitter, worldwide debate. The Sri Lankan intervention, in comparison, passed relatively unnoticed, and certainly seems now to have left the collective conscience. Why?

It is not implausible to suggest that the Indian intervention in Sri Lanka is largely forgotten because the people being affected were not the inhabitants of some area of vital strategic importance for any of the world's established “conscience-keepers,” but rather the inhabitants of a peripheral area in a small, economically and geostrategically negligible country. Furthermore, the Sri Lankan conflict at the time of intervention was “only” claiming lives in the 100s and driving people from their homes in the 1,000s. The refugee-flow from the conflict, however, had by that time at the very lowest estimate reached the 10,000s, by several estimates over 100,000, significantly more if internal displacements are included in the count. The city of Jaffna, under control of a ruthless guerrilla army and under siege of a Sri Lankan Army increasingly vengeful following a half-decade of warfare, at the time housed at least half a million Tamil citizens, whose future prospects looked uncertain at best in mid-1987. Almost the entire Tamil population of Sri Lanka – around 2 million – had reason to be bitter at decades of repression, and highly apprehensive in the face of the situation as it looked at the time.

At what point did we cross over into the “humanitarian emergency” realm? Or did we not?

Had not calls for intervention been widespread in Europe, if the minority at stake was a European minority, and the refugees in question were crossing European borders, telling their stories of suffering to European ethnic kin?

It need not be said that there should be no moral difference between a situation occurring in South Asia and a situation occurring in Western Europe. The case-studies presented in this thesis, if nothing else, have proven the importance of maintaining a normative discussion around the topic of humanitarian intervention; a discussion that would be well served by a greater focus also on countries and cases outside the “western” realm of interest.

Literature List

- Annan, Kofi (1999). "Towards a New Definition of Sovereignty," ch.58 in Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.⁶⁰
- Aquinas, Thomas (1268-1271), "Just War and Sins Against Peace", ch.16 in Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.
- Augustine (354-430), "Just War in the Service of Peace", ch.7 in Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.
- Ayoob, Mohammed & Subrahmanyam, K. (1972). *The Liberation War*. New Delhi: S. Chand & Co. (Pvt.) Ltd.
- Barman, Abheek (2005). "A Plan for Gyan", *The Times of India* 29 April.
<<http://timesofindia.indiatimes.com/articleshow/1092488.cms>>. [5 December 2007].
- Beyer, Lisa (1990). "Sri Lanka Goodbye – and Good Riddance". *Time* 2 April.
<<http://www.time.com/time/magazine/article/0,9171,969737,0.html>>. [19 February 2008].
- Bhutto, Zulfikar Ali (1971). *The Great Tragedy*. Lahore: Agha Amir Hussain, Classic.
- Bhutto, Zulfikar Ali (1972). *President of Pakistan Zulfikar Ali Bhutto. Selected Speeches and Statements December 20, 1971-March 31, 1972*. Karachi: The Department of Films and Publications, Government of Pakistan.
- Brekke, Bo Christoffer (2007). *Conditional Sovereignty and the Securitization of Regime Type*. Term Paper: Institute of Political Science, University of Oslo.
- Brekke, Bo Christoffer (2007). *The Indian Intervention in Sri Lanka's Civil War 1987-1990*. Term Paper: Institute of Political Science, University of Oslo.
- Brekke, Torkel (2006). *The Ethics of War in Asian Civilizations. A Comparative Perspective*. London: Routledge.
- Calvin, John (1559), "Legitimate War in Reformed Christianity", ch.25 in Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.
- Census of India (2001). "Abstract of Speaker's Strength of Languages and Mother Tongues".

⁶⁰ The titles of the chapters from Reichberg et al. are the ones given by the editors, and these are not necessarily the same as the title of the work of the original author. I have chosen, after discussing this with my advisor, to retain the editors' chapter titles here, as these sum up the main contents of the selections from the original author.

<http://www.censusindia.gov.in/Census_Data_2001/Census_Data_Online/Language/Statement1.htm>. [10 May 2008].

Charter of the United Nations (1945). <www.un.org/aboutun/charter/>. [5 December 2007].

Clausewitz, Carl von (1832), “Ethics and Military Strategy”, ch.43 in Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.

Collier, David (1993). “The Comparative Method”, pp.105-119 in Finifter, Ada W. *Political Science. The State of the Discipline II*. Washington D.C.: American Political Science Association.

Convention on the Prevention and Punishment of the Crime of Genocide (1948). <<http://www.un.org/millennium/law/iv-1.htm>>. [10 April 2008].

Coppieters, Bruno & Kashnikov, Boris, “Right Intentions”, ch.3 in Coppieters, Bruno & Nick Fotion (2003) (eds.). *Moral Constraints on War*. Lanham: Lexington Books.

Department of Census and Statistics – Sri Lanka (2001a). “Number and Percentage of Population by District and Ethnic Group”. <<http://www.statistics.gov.lk/PopHouSat/PDF/Population/p9p8%20Ethnicity.pdf>> [10 May 2008].

Department of Census and Statistics – Sri Lanka (2001b). “Population by District, Size, Intercensal Increase and Average Growth Rates, Census 1981 and Census 2001”. <<http://www.statistics.gov.lk/PopHouSat/PDF/Population/p9p1%20Growth.pdf>>. [10 May 2008].

De Silva, K.M. (2000), “Sri Lanka's Ethnic Conflict and the Long Search for its Resolution: 1979-1999”, ch.1 in De Silva, K.M. & G.H. Peiris (eds.), *Pursuit of Peace in Sri Lanka. Past Failures and Future Prospects*. Kandy: Sridevi Printers.

Desmond, Edward W. (1987), “If This Is Peace...”, *Time*. 10 August. <<http://www.time.com/time/magazine/article/0,9171,965188,00.html>>. [10 April 2008].

De Vitoria, Francisco (1557), “Just War in the Age of Discovery”, ch.27 in Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.

Encyclopedia Britannica Online (2008), “Mens Rea”. <<http://www.britannica.com/eb/article-9052042/mens-rea>>. [16 May 2008].

Franck, Thomas M. & Nigel S. Rodley (1973). “After Bangladesh: The Law of Humanitarian Intervention by Military Force”, *The American Journal of International Law*. Vol. 67, No. 2: 275-305. Accessed at JSTOR, <<http://www.jstor.org/stable/2199432>>. [17 January 2008].

Frendreis, John P. (1983). “Explanation of Variation and Detection of Covariation. The Purpose

and Logic of Comparative Analysis”, *Comparative Political Studies*. Vol. 16, No.2: pp. 255-272.

Gandhi, Indira (1972). *India and Bangla Desh. Selected Speeches and Statements March to December 1971*. New Delhi: Orient Longman.

Ganguly, Rajat (1998). *Kin State Intervention in Ethnic Conflicts. Lessons from South Asia*. New Delhi: Sage Publications.

Gerring, John (2004). “What is a Case Study and What Is It Good for?”, *American Political Science Review. Quarterly Journal of the American Political Science Association*. Vol.98, No.2: pp.341-354.

Ghosh, P.A. (1999). *Ethnic Conflict in Sri Lanka and Role of Indian Peace Keeping Force (I.P.K.F)*. New Delhi: A.P.H. Publishing Corporation.

Grande, Norunn (1991). *Intervensjon som konfliktløsning. En diskusjon av fredsavtalen mellom India og Sri Lanka og det indiske militære nærvær på Sri Lanka 1987-1990*. University of Oslo, Institute of Political Science. Master's Thesis.

Gratian (ca 1140), “War and Coercion in the *Decretum*”, ch.10 in Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.

Grotius, Hugo (1625), “The Theory of Just War Systematized”, ch.32 in Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.

Hagerty, Devin T. (1991). “India’s Regional Security Doctrine”, *Asian Survey*, Vol. 31, No. 4: pp. 351-363. Accessed at JSTOR, <<http://www.jstor.org/stable/2645389>>. [14 February 2007].

Holzgrefe, J.L. (2003), “The Humanitarian Intervention Debate”, ch.1 in Holzgrefe, J.L & Robert O. Keohane (eds.). *Humanitarian Intervention. Ethical, Legal, and Political Dilemmas*. Cambridge: Cambridge University Press.

International Convention on Intervention and State Sovereignty (2001). *The Responsibility to Protect*. Report. Ottawa: The International Development Research Centre.

Jal, Yazad (2005). “Should India Invade Nepal?” Blog. <<http://www.yazadjal.com/2005/04/29/should-india-invade-nepal/>>. [5 December 2007].

Jayatilleka, Dayan (2000), “The LTTE and Tamil Separatism in Sri Lanka”, chp.7 in De Silva, K.M. & G.H. Peiris (eds.), *Pursuit of Peace in Sri Lanka. Past Failures and Future Prospects*. Kandy: Sridevi Printers.

Johnson, James Turner (1999). *Morality and Contemporary Warfare*. New Haven & London: Yale University Press.

Kjelstadli, Knut (1992). *Fortida er ikke hva den en gang var. En innføring i historiefaget*. Oslo:

Universitetsforlaget.

- Kodikara, Shelton U. (1989). "The Continuing Crisis in Sri Lanka: The JVP, the Indian Troops, and Tamil Politics", *Asian Survey*, Vol. 29, No.7: pp. 716-724. Accessed at JSTOR, <<http://www.jstor.org/stable/2644676>>. [1 April 2008].
- Kumar, Satish (1975). "The Evolution of India's Policy Towards Bangladesh in 1971", *Asian Survey*. Vol.15, No.6, pp.488-498. Accessed at JSTOR, <<http://www.jstor.org/stable/2643261>>. [13 March 2008].
- Manivannan, Thirumalai (2006). "The Importance of Two Provinces", *BBC News*. 17 October. <http://news.bbc.co.uk/2/hi/south_asia/6059992.stm>. [20 April 2008].
- Map of South Asia. Center for South Asian Studies, University of Toronto. <<http://www.sgs.utoronto.ca/sas/map.html>>. [19 May 2008].
- Marwah, Onkar (1979). "India's Military Intervention in East Pakistan, 1971-1972", *Modern Asian Studies*. Vol.13, No.4, pp. 549-580. Accessed at JSTOR, <<http://www.jstor.org/stable/312183>>. [9 January 2008].
- Mascarhenas, Anthony (1971a). "Genocide", *Sunday Times* 13 June. <http://www.genocidebangladesh.org/?page_id=12>. [15 February 2008].
- Mascarhenas, Anthony (1971b). *The Rape of Bangla Desh*. Delhi: Vikas Publications.
- Matlary, Janne Haaland (2006): *Values and Weapons: From Humanitarian Intervention to Regime Change?*. Palgrave Macmillan, United Kingdom.
- National Conference of Catholic Bishops (1983 and 1993), "A Presumption against War", ch.57 in Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.
- North East Secretariat On Human Rights (2006): *Statistics on Civilians Affected by War in Northeast*. Report. <<http://www.nesohr.org/inception-sept2007/human-rights-reports/StatisticsOnCiviliansAffectedByWar.pdf>> [20 April 2008].
- Orend, Brian (2002), "Justice After War", in *Ethics & International Affairs*, Vol.16, No.1, pp.43-56. <http://www.cceia.org/resources/journal/16_1/articles/277.html>. [5 February 2008].
- Peiris, G.H. (2000), "Rehabilitation, Reconstruction and Reconciliation: A Retrospect", ch.12 in De Silva, K.M. & G.H. Peiris (eds.), *Pursuit of Peace in Sri Lanka. Past Failures and Future Prospects*. Kandy: Sridevi Printers.
- Pfaffenberger, Bryan (1988). "Indian Intervention and the Resurgence of the JVP", *Asian Survey*, Vol. 28, No. 2, pp.137-147. Accessed at JSTOR, <<http://www.jstor.org/stable/2644815>>. [7 April 2007].
- Ragin, C.C. & G. de Meur (2000). "Political Methodology: Qualitative Methods", ch.33 in Goodin, R.E & H-D. Klingemann (eds.) *A New Handbook of Political Science*. Oxford: Oxford University Press.

- Rediff.com (2000). "India's Vietnam. The IPKF in Sri Lanka: 10 Years On."
 <<http://www.rediff.com7news720007mar724lanka.htm>>. [23 February 2008].
- Reichberg, Gregory; Henrik Syse & Endre Begby (eds.) (2006). *The Ethics of War. Classic and Contemporary Readings*. Malden, MA: Blackwell Publishing.
- Roy, Kaushik (2007). "Just and Unjust War in Hindu Philosophy", *Journal of Military Ethics*. Vol. 6, No. 3, pp.232-245.
- Rummel, R.J. (1997). *Statistics of Democide: Genocide and Mass Murder Since 1900*. Charlottesville, Virginia: Transaction Publishers, Rutgers University.
 <<http://www.hawaii.edu/powerkills/NOTE5.HTM>>. [20 February 2008].
- Satyendra, Nadesan (1988), "New Delhi and the Tamil Struggle", *Tamilnation.org*,
 <<http://www.tamilnation.org/intframe/india/880115saty.htm>>, [23 February 2008].
- Singh, Lt.Gen. Depinder (2001). *Indian Peacekeeping Force in Sri Lanka 1987-1989*. New Delhi: Natraj Publishers.
- Singh, S.K, S. Gupta, S. Kumar, H.C. Shukla, V.V. Nevrekar & D.K. Basu (eds.) (1971). *Bangladesh Documents, Vol. I*. New Delhi: Publications Division, Ministry of Information and Broadcasting.
- Singh, S.K, S. Gupta, S. Kumar, H.C. Shukla, V.V. Nevrekar & D.K. Basu (eds.) (1972). *Bangladesh Documents, Vol.II*. New Delhi: Publications Division, Ministry of Information and Broadcasting.
- Syse, Henrik (2003). *Rettferdig Krig?* Oslo: Aschehoug & Co.
- Tambiah, S.J. (1986). *Sri Lanka. Ethnic Fratricide and the Dismantling of Democracy*. Chicago: The University of Chicago Press.
- The Secretary-General's High Level Panel on Threats, Challenges and Change (2003): *A More Secure Future: Our Shared Responsibility. Executive Summary*, United Nations. Report. <<http://www.un.org/secureworld/brochure.pdf>>
- The Tamil National Struggle & the Indo-Sri Lanka Peace Accord. An International Conference at the Middlesex Polytechnic, London (1988). "Conference Resolutions", *Tamil Canadian. Tamils's True Voice*. <<http://www.tamilcanadian.com/page.php?cat=26&id=49>>. [23 February 2008].
- Time (1971a). "Bangladesh: Out of War, a Nation Is Born". 20 December.
 <<http://www.time.com/time/magazine/article/0,9171,878969,00.html>>. [19 February 2008]
- Time (1971b). "Dacca, City of the Dead". 3 May.
 <<http://www.time.com/time/magazine/article/0,9171,876963,00.html>>. [19 February 2008].
- Time (1971c). "East Pakistan: Even the Skies Weep". 25 October.

- <<http://www.time.com/time/magazine/article/0,9171,877316,00.html>>. [19 February 2008].
- Time (1971d). "Pakistan: The Ravaging of Golden Bengal". 2 August.
<<http://www.time.com/time/magazine/article/0,9171,878408,00.html>>. [19 February 2008].
- Time (1971e). "The Battle of Kushtia". 19 April.
<<http://www.time.com/time/magazine/article/0,9171,905021,00.html>>. [19 February 2008].
- Time (1971f). "Trying to Cap a Hot Volcano". 15 November.
<<http://www.time.com/time/magazine/article/0,9171,903230,00.html>>. [19 February 2008].
- Time (1987). "Sri Lanka Bearing Gifts". 15 June.
<<http://www.time.com/time/magazine/article/0,9171,964684,00.html>>. [19 February 2008].
- University Teachers for Human Rights (Jaffna) (1992): *Human Rights and the Issues of War and Peace*. Briefing. <<http://www.uthr.org/Briefings/Briefing1.htm>>. [20 April 2008].
- University Teachers for Human Rights (Jaffna) (1995): *Children in the North-East War: 1985-1995*. Briefing. <<http://www.uthr.org/Briefings/Briefing2.htm>>. [20 April 2009].
- United Nations Security Council Resolution 303 (1971).
<<http://www.un.org/documents/sc/res/1971/scres71.htm>>. [5 December 2007].
- Walzer, Michael (1977). *Just and Unjust Wars. A Moral Argument with Historical Illustrations*. New York: Basic Books.
- Weisman, Steven R. (1987). "India Airlifts Aid to Tamil Rebels", *The New York Times*. 5 June.
<<http://query.nytimes.com/gst/fullpage.html?sec=health&res=9B0DE0D8173FF936A35755C0A961948260&n=Top%2fNews%2fWorld%2fCountries%20and%20Territories%2fIndia>>. [20 April 2008].
- Welsh, Jennifer M. (2004): *Humanitarian Intervention and International Relations*. Oxford: Oxford University Press.
- Wheeler, Nicholas (2000). *Saving Strangers. Humanitarian Intervention in International Society*. Oxford: Oxford University Press.
- Yin, Robert K. (2003). *Case Study Research. Design and Methods*. Thousand Oaks: Sage Publications, Inc.