

8-24-1998

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Christopher Kilby  
*Vassar College*

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## Citation Information

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Aid and Sovereignty

Christopher Kilby

Department of Economics, Vassar College

Poughkeepsie, NY 12604-0382, USA

August 24, 1998

**Published in:**

**Social Theory and Practice, Spring 1999, 25(1):79-92.**

**Summary.** -- To achieve humanitarian objectives, international development assistance must be structured to insure its effectiveness. The resulting conditionality, however, raises sovereignty concerns as attempts to promote effectiveness may conflict with respect for recipient state sovereignty and indirectly violate individuals' right to self-determination. The paper explores the nature of this conflict and provides guidelines for official donors.

This paper examines implications of the moral or humanitarian basis for international aid, focusing specifically on a potential conflict with respect for recipient state sovereignty. Here, sovereignty refers to a moral right rather than the principle underlying the post-Westphalian international legal system. The humanitarian motive is not the only basis for giving aid but it cuts across all types of aid (bilateral, multilateral, and private) and is an important component of long term support for aid. With its focus on sovereignty, the critique presented is particularly relevant for multilateral aid since this type of aid relies more heavily on humanitarian justifications.

## **I. Introduction**

In his book entitled *Practical Ethics*, Peter Singer argues that we have an obligation to assist, to give foreign aid.<sup>1</sup> Accepting our obligation as aid donors carries with it positive and negative duties: that our aid do as much good as possible and as little harm as possible. To do so, we must structure aid with conditions intended to promote the good aspects and reduce the bad. This raises the question of conditionality: what conditions, implicit or explicit, should aid donors place on their assistance? By placing conditions on aid, we may at times not give aid. It is clear in some extreme cases, e.g., Somalia circa 1989, that there is an obligation not to give aid as it

supports brutal regimes which otherwise would not remain in power. Likewise, there are many cases, especially in disaster relief, where there is a clear obligation to give aid. But what can be said of the continuum in between, where is the dividing line between the obligation to give and the obligation not to give, and what sort of conditions on giving are justified in each situation?

In this essay, I examine official international aid. Official Development Assistance (ODA) is from multilateral agencies such as the World Bank and bilateral agencies such as United States Agency for International Development (US AID) to governments of less developed countries (LDCs). As this sort of aid potentially can influence the policies of LDC governments, it raises the question of infringement on state sovereignty. In contrast, private aid from charitable organizations is "from people to people" and the manner of giving is not often based on conditions.

The apparent conflict between official aid and state sovereignty has increased in recent years. During the Cold War era, LDC governments were thought to have a fair degree of leverage in aid negotiations as they could play the East against the West.<sup>2</sup> In addition, the conditions for aid were not often in direct conflict with state sovereignty: voting on UN resolutions of little import to the country or granting rights for military

bases which would also stimulate the local economy.<sup>3</sup> This silver lining of the Cold War began to fade, however, with the end of Chinese foreign aid in 1979 and the rapid demise in Eastern Bloc aid through the 1980s. The debt crisis touched off by Mexico's default in 1982 further narrowed options for LDC governments. Ensuing negotiations led to greater cartelization of the aid donors and focused attention on LDC macroeconomic policies and governance. By the late 1980s, aid conditionality was in direct conflict with state sovereignty.

This conflict between aid and sovereignty is not surprising. The positive and negative duties implied by giving aid require placing conditions on aid and conditionality, unless it is spurious, will conflict in some way with sovereignty. Yet, state sovereignty cannot simply be ignored, as sometimes seems to be the practice. If the government has any legitimacy in representing the "will of the people," the right to self-determination translates into the right to state sovereignty and must be respected. In addition, state sovereignty itself is an important component of self-sustaining development, our ultimate goal as aid providers.

The rest of this essay fills out these arguments. I first refine the obligation to give aid and the duties implied therein. In the following section, I contrast the political and the philosophical views of state sovereignty and, casting political

sovereignty as a right, explore the implications of the latter. I next argue that the conflict between official aid and sovereignty is central and unavoidable. The final section provides some guidance for making the necessary compromise between conditionality and sovereignty and closes with a sketch of the implications for aid in practice.

## **II. Duties of Aid Donors**

The arguments I present here accept the claim that we have an obligation to give aid to distant peoples. Using this as a starting point, the focus shifts from aid as a cost to the donor to aid as a benefit to the recipient. In this light, we can reinterpret aid in a more abstract and meaningful fashion: aid is relief and development assistance. The relevant quantity is not the amount of aid given but the amount of relief and development assistance received. Relief prevents starvation and health-threatening malnutrition. Development assistance promotes a self-sustaining increase in the quality of life particularly for the poorest in society.<sup>4</sup>

With this conception of aid, we cannot look simply at resource transfer. Rather, we must look at the use of these resources, at the long term effects of these uses and the resource transfer itself, and at distributional issues. Should the World Bank or US AID have counted aid to the Philippines

during the Marcos era as the number of billions of dollars transferred to government accounts? Surely not, when all involved knew that much of the money quickly found its way into private hands.<sup>5</sup> The long term effects have been negative as repayment of Marcos era loans from the World Bank continues to this day. This so-called aid has also worsened the distribution of income as most of the benefits were gathered by the wealthiest while current structural adjustment policies necessary to continue debt servicing push the unskilled unemployment rate toward 50 percent. As this example points out, the obligation to give aid must go beyond a blind transfer of resources.

As aid donors, we have certain duties. These duties insure that the aid given, the resource transfer, is received as disaster relief and development assistance. These duties are positive and negative: the positive duty to maximize the good done and the negative duty to avoid significant harm to a significant number of people. If aid does not adhere to these guidelines, it is meaningless to call it aid.<sup>6</sup>

The positive duty to insure that aid given is used efficiently in relief and development work is a primary force behind the practice of administering aid as development projects rather than channeling aid funds directly into the general budget of the recipient government. A development project has relatively specific goals and is defined sectorally,

geographically or both. It is implemented over a fairly short period of time, typically three to eight years. The donor knows the use of its aid and can calculate in a rough way the contribution made to economic development. This, it is hoped, will enable the donor to be sure its resources are used well. Indeed, the charters of some international development organizations, including the World Bank and the Asian Development Bank, require these institutions to insure that their funds are used efficiently for promoting development. Such clauses traditionally have been interpreted as requiring project aid.

It is well known that the project level cost-benefit analysis alluded to above can be misleading. Donors face a fungibility problem since aid funds for a project the government already intended to carry-out effectively finance other activities which may be in direct conflict with donor goals.<sup>7</sup>

The positive duty of the aid donor is not easily met. Not only must the donor examine the merits of the project funded, it must also speculate about the intentions of the recipient government. In the case where the donor is not generally in agreement with the policies of the recipient government, the donor must put relatively strict conditions on the use of aid, even targeting projects not highly favored by the recipient government, if it wishes to minimize the fungibility problem.

Matching this positive duty is a negative duty to avoid



forms of aid which might be harmful. This includes refraining from funding projects with such fungibility issues, with adverse environmental impact, or which harm some segment of society. Unfortunately, these are not merely theoretical issues; the history of development aid is filled with examples of donors ignoring this negative duty. World Bank funding of the Polonoroeste regional development program and the Greater Carajas program in Brazil led to massive and, most likely, foreseeable environmental destruction and human suffering of indigenous peoples. The Transmigration project from Java to the outer islands of Indonesia, the Chico Dam project in the Philippines, and the Narmada Dam project in India all included both international aid and massive displacement of people without reasonable compensation. In most of these cases, one could argue that international donors had a negative duty not to fund these projects as they were fundamentally unsound.

Thus, the positive and negative duties of aid donors imply strict conditions on development assistance. Such conditionality in the context of the unequal aid relationship raises concerns over the sovereignty of the recipient state.

### **III. The Right to Political Sovereignty**

Why should we respect the political sovereignty of aid recipients when it may interfere with the efficient allocation of

development assistance? On what basis is political sovereignty deemed a right? Much of the writing in international relations does not treat sovereignty as a right but as a logical principle organizing the interaction of states and promoting order. Yet, for the purposes of the current argument it is the right to sovereignty rather than the legal tradition which is central.

The concept of sovereignty has been evolving as long as the modern nation-state. Some scholars, notably Bodin in the 16th century and Schmitt in the 20th, view the sovereign as a political necessity and focus on characteristics of sovereign power. For Bodin, "sovereignty is the absolute and perpetual power of a commonwealth."<sup>8</sup> The sovereign should serve the interests of the people and the state but is answerable only to God. According to Schmitt, "Sovereign is he who decides on the exception."<sup>9</sup> As such, sovereignty cannot be shared between organs of government or limited in any way. The central concern for both men is national and international political stability; only an absolute source of authority can deal with every eventuality. Indeed, since the absolute sovereign is above the laws of men, the only justification is the role the sovereign plays. The right of a state to sovereignty is not discussed as such by Bodin and Schmitt.

The current literature on the role of sovereignty in international relations focuses largely on what limits should be

imposed on sovereignty (and restrictions lifted on intervention) to better protect human, economic, and political rights without destabilizing the international system to the point of armed conflict or allowing aggressive behavior under the guise of humanitarian intervention. In his Morgenthau Lecture, J. Bryan Hehir emphasizes the "fragile moral foundation" of what has become known as the Westphalian system: "The ethical calculus supporting the rule [of nonintervention] involves a clear consequentialist choice to give priority to order over justice in international relations."<sup>10</sup> Sovereignty and its corollary of non-intervention are viewed as the basis of a stable international political system, privileging order over justice. Although an ethical position is articulated – in weighting the good of order against the good of justice – sovereignty itself is still not viewed as a right. Respect for state sovereignty is not based on a right to sovereignty but rather on the merits of order, and in practice implies a rule of nonintervention. The next move in this more recent literature – outlining when intervention is justified – considers the tradeoff between justice and order, evidence again that a right to sovereignty is not considered directly. In contrast, scant attention is given to economic and political coercion as they pose no immediate threat to order.<sup>11</sup>

There is, however, a philosophical tradition which views

state sovereignty as a right. This right derives from the rights of the individual citizens and the legitimacy of the state. Based on natural law or other arguments, most modern philosophers place the individual's right to self-determination high on the list of human rights. Viewing the state as a collection of individuals, the domestic analogy translates respect for self-determination of the individual into respect for sovereignty of the legitimate state. A legitimate state is one considered legitimate by a substantial majority of its citizens, i.e., a government not maintained by continual threat of force against its citizens, and that does not engage in criminal activities such as the widespread violation of human rights, including subsistence rights. Although we may favor a particular form of government, we must accord any legitimate state the right to sovereignty over its territorial domain and domestic policies.<sup>12</sup>

What is entailed in respecting the right to sovereignty of a legitimate state? It is not only the territorial domain of the sovereign state that should be held sacrosanct but also the domestic policies (and foreign policies to the extent that they do not come into conflict with those of another state). Indeed, the arguments presented above focus on this latter aspect of sovereignty since the individual's right to self-determination is most directly linked to the formulation of domestic policy.<sup>13</sup> Foreign powers (any organization not directed by and primarily

composed of citizens of the state) should not attempt to influence unduly the process of domestic policy formation in a legitimate sovereign state or assume the functions of government. However, not all forms of external influence are excluded. The foundational principle of international law is the equality of sovereign states. One state may attempt to influence the policies of another but only using methods consistent with equality, that is, excluding coercion. In this context, the meaning of coercion extends beyond the threat of physical force. Any action which directly or intentionally threatens the integrity of the state or the welfare of its citizens is prohibited.<sup>14</sup>

In a like manner, there are limits to delegation of sovereign responsibilities. Bodin makes clear that a sovereign can delegate its duties and powers to others, enumerating who may and may not be deemed sovereign, but true sovereignty remains with the original sovereign. A state may yield sovereign rights through international treaties, trade agreements, and membership in organizations (such as the UN) but must retain ultimate sovereignty. This is assured as long as the state enters these agreements freely and delegates its powers by choice. An external power may not assume functions of the sovereign state by means of coercion and still claim to respect that sovereignty.

#### **IV. The Conflict between Aid and Sovereignty**

The duties of the aid donor appear to require aid conditionality that conflicts directly with respect for recipient state sovereignty. But are sovereignty concerns relevant? There is no external compunction to accept aid from a donor. The recipient freely enters into the contract with whatever conditions and restrictions contained therein. The same agent -- the LDC government -- both makes this decision and safeguards state sovereignty. Even such extreme proponents of an absolute and undivided sovereign as Bodin and Schmitt would argue that sovereignty is undiminished by entering into agreements with other states or temporarily vesting control in another body. Where is the coercion?

Yet this argument falls short. A government may face conflicting duties -- the duty to improve the welfare of its citizens and the duty to preserve state sovereignty. Given prevailing conditions, most LDC governments accept aid to satisfy the needs rather than the wants of their citizens. From this point of view, it is clear that the recipient government is not "free" to reject aid. It is obligated to accept aid that may infringe on sovereignty in order to meet the needs, not the wants, of its citizens. Thus, conditionality is in a sense coercive. If it impinges on sovereignty, conditionality is unjust in that it forces the government to choose between

conflicting duties.

The question of what constitutes coercion or intervention has been examined extensively by international law scholars. Thomas and Thomas impose a strict interpretation though one which hinges on the motives of the intervening states:

... if the activity is undertaken as a measure of economic compulsion or pressure in order to dictate the policy of another state, there is an invasion of the protected sphere of interest of that state and it become intervention.<sup>15</sup>

Knorr identifies both negative and positive sanctions as potentially coercive. Negative sanctions, the threat to cut off foreign aid, are "an attempt at coercion ... only when both parties understand that the former recipient [of aid] must do something specific in order to effect a resumption of aid." Likewise,

... there [is] also an attempt at coercion when a new aid offer is used as a positive sanction, that is, when the prospective recipient is told that he will get aid provided if he satisfies certain stipulated conditions.<sup>16</sup>

In reviewing this literature, Brown points out that the element

of coercion ultimately derives from the situation of the aid recipient:

One could argue that such promises of aid are not truly coercive since the target state is not strictly speaking compelled to accept the conditions of the aid. Nonetheless, the need of that state for aid may be compelling.<sup>17</sup>

If aid with conditions violates sovereignty, should we reconsider our earlier position and reexamine the merits of unconditional aid? Baldwin argues strongly against this, delineating what unconditional (stringless) aid implies:

The concept of aid without strings implies both that aid would be distributed randomly and that aid would continue to be allocated regardless of the behavior of the recipient states. This is useful since the sooner the preposterous requirements of stringless aid are understood, the sooner one can get on with examining the important problems of the number and kind of strings on aid that are desirable from various points of view.<sup>18</sup>



## **V. Resolving the Conflicts**

Recognizing the nature and importance of this conflict between aid and sovereignty can take us a long way toward resolving it. In the following discussion, I outline such a resolution making frequent use of the domestic analogy. By the domestic analogy I mean that I assume interpersonal ethics can be extended to the international arena but allow for modification when that analogy falls short.<sup>19</sup> I argue that project aid can be made explicitly conditional on how the resources are used and distributed. I also argue for implicit conditionality on program aid but claim that explicit policy conditions pose too great a threat to sovereignty.

As a domestic analogy, consider encountering a needy woman with children living on the street. We have an obligation to assist this woman if the cost to us of doing so is not too high. We may give money. We may offer food, clothing or shelter. We may provide coupons redeemable only for basic necessities. We may offer job training. None of these forms of assistance violate the homeless woman's right to sovereignty or self-determination.<sup>20</sup> Likewise, providing international assistance in the form of food or clothing or health care training or construction of an irrigation system does not violate the sovereignty of the recipient state. If, in the unself-interested judgement of the donor, this form of aid is most appropriate from

an efficiency point of view, then we have satisfied simultaneously our two criteria, respecting state sovereignty and providing effective aid (assuming fungibility issues have been considered as well). If the aid can be conceptualized as a "thing" or a service to the recipient, offered with no external conditions, it fits this general category. Conditions implied by this type of aid are intrinsic to the goods or services offered.

Continuing with the analogy, suppose we encounter the same woman one year later with yet another child and still on the street. Bracketing concerns about the children's welfare, we may think twice about repeating our generous act. Our assistance has had little impact on the woman and we can guess that repeating it is unlikely to lead to permanent improvements. We would be within our rights to withhold assistance to her this time, perhaps directing our aid to another equally needy person. Yet, a clear part of the problem is the woman's inability to limit her fertility. Perhaps the most efficient thing would be to convince her to address this issue. We might offer free lodging on the condition that she get a NorPlant<sup>™</sup> or a tubal ligation. On further investigation, we find that the young woman dropped out of school at an early age. We could offer food and clothing on the condition that she go back to school. Although this sort of aid may be well intentioned, it is clearly coercive, infringing on the woman's bodily integrity and freedom of choice. This sort

of explicit conditionality, while possibly very effective, is by most standards an unacceptable violation of self-determination since the needy person cannot reject the offer.

For the purposes this paper, I focus strictly on the woman. The children play a purely instrumental role, illustrating a situation where choices made by the woman may make her worse-off and yet are so fundamental to her right to self-determination that those choices should not be forcefully restricted. The analogy compares the woman's decisions with choices made by a legitimate government and restrictions on the woman with restrictions on government action.<sup>21</sup>

I draw a number of lessons from this domestic analogy. First, the aid donor is well within its rights to employ implicit conditionality, that is to assist only those countries which meet some criteria which the donor believes important for aid effectiveness. Although apparently harsh, this applies equally to development assistance and relief aid. If very little of the relief aid reaches those in need, the donor is free to redirect its resources.

Second, explicit conditions which link aid to significant aspects of LDC government policy or organization are unacceptable violations of state sovereignty. The effectiveness of such measures is not at issue; if the government is legitimate, such coercive conditions do to the collective what the overzealous

philanthropist did to the homeless woman -- violate the right of self-determination. Such conditions are extrinsic characteristics which violate sovereignty since they lie in the sphere of public policy. This applies equally to extrinsic conditions placed on project and program aid. As an example of project aid, funding for an agricultural project should not be explicitly conditional on macroeconomic policy. In the case of program aid, there are no intrinsic characteristics and hence the focus is on conditionality.

Such a sharp distinction between the ethical merits of implicit and explicit conditionality is sensible only if there is a real, practical difference between the two. Is there? With explicit conditionality, the aid contract explicitly links satisfaction of certain conditions by the recipient with disbursement of funds. For example, funds might disburse only after rice subsidies are eliminated, following a currency devaluation, or after the government payroll is cut by one third. Implicit conditionality entails an official or unofficial practice linking policies of potential aid recipients to aid eligibility. A donor might choose to aid only countries which do not subsidize basic commodities, have a market determined foreign exchange rate, or avoided wasteful spending on bloated bureaucracies. On first consideration, the only difference is timing. In the first case, donor and recipient enter into a

contract before the recipient's actions are observed by the donor while in the second case, interaction only occurs after the donor has observed these actions. In a repeated setting, we might expect countries in need of aid to figure out what the donor looks for and to craft their policies accordingly. However, explicit conditionality allows much more precise conditions on aid and usually includes substantial "policy dialogue." This provides the donor with additional opportunities to influence recipient behavior and greatly increases donor leverage over recipient policies.

World Bank structural adjustment programs provide a clear illustration of explicit policy conditionality at work. Some programs have had more than 100 conditions enumerated; in theory, at least, the various tranches of the loan do not disburse until the government has complied with the whole list. Recently in Kenya, the World Bank has begun requiring Policy Framework Papers (PFPs) which spell-out prescribed government policy in great detail. While a government might anticipate that the World Bank would be more favorably disposed to lending to a free trade oriented country with limited government intervention, the level of control could never be as complete as with direct donor involvement. Evidently, explicit policy conditionality infringes on state sovereignty to a much greater degree than implicit conditionality.

In contrast, when dealing with an illegitimate government explicit conditionality is allowable, perhaps even advisable. If the government maintains itself by force, it has no right to sovereignty as its policies cannot be viewed as reflecting the will of the citizens. In theory, any reasonable conditions might be placed on aid in such situations though conditions on human rights and political reform are most likely given that these will be pressing issues of national development. Indeed, since international assistance confers some semblance of legitimacy and substantial resources on the recipient government, one could argue that aid should focus on relief, human rights and political reform in such cases. Regardless, in these cases unconditional aid is unlikely to accomplish its objective of promoting sustainable development.

The stark domestic analogy employed above may cause one to question whether this analogy is appropriate. While forced family planning is certainly not justified, perhaps some less egregious infringement on self-determination could be found (such as conditioning assistance on attending family planning workshops). Yet policy conditions advocated by donor agencies have had dramatic implications for the poor in LDCs including rapid increases in unemployment, reduction in public services such as health care (resulting in rising maternal and child mortality), and complete reversals in public policy. Following a

scathing report by UNICEF, adjustment programs have included consideration of social aspects yet this remains ancillary to the central package.<sup>22</sup>

Granting that the analogy is indeed appropriate, we may still favor a system which allows degrees of infringement on sovereignty in proportion to the scale of the problem to be addressed. This perspective would follow naturally, for example, from the principle of proportionality in the Just War tradition. In a real sense, however, proportionality is built into the scheme outlined above. If the recipient government has the full faith of the donor, no conditions need be applied and aid may take the form of a lump sum transfer of resources. If the government is sufficiently representative of the interests of its citizens but does not share the same developmental agenda as the donor, the latter will employ implicit conditionality to fulfill its duties, limiting the use of aid by funding specific projects or limiting the quantity of aid. However, if the donor judges the policies of the recipient government at odds with the best interests of its citizens, the donor may withhold funding. If it judges the recipient government illegitimate as a representative of the interests of its citizens, the donor may then employ explicit conditionality to circumvent the illegitimate government. Thus, the donor's use of conditionality is in proportion to its assessment of the merits of the recipient

government.

What implications can we draw for the "real world" practice of development assistance? As noted earlier, concerns over state sovereignty have traditionally taken a distant second place to efficiency and other issues. The current practice of program aid with explicit policy conditions (e.g., structural adjustment) and project aid with external conditions clearly violate state sovereignty. With this type of aid recently accounting for as much as 50 percent of new commitments of some development agencies, would respect for sovereignty require a massive restructuring of aid programs?<sup>23</sup>

Respect for sovereignty would mean the end of structural adjustment programs as they are now developed and administered. World Bank structural adjustment programs have often been "forced" on relatively reluctant recipients with points of leverage including the large sums of money loaned as part of the adjustment package, other project lending within the country, IMF agreements, aid from other sources, and commercial lending. Accounts of the negotiation process between aid recipients and donors over adjustment packages reveal a rather one sided ultimatum approach.<sup>24</sup> Adjustment has often been viewed as a bitter pill required to satisfy aid donors with the corollary that policy reversals have been frequent. For example, in Zaire civil unrest resulting from adjustment policies brought about an



end to the World Bank-sponsored program.

But research at the World Bank and elsewhere suggests that restricting structural adjustment programs to borrower initiated programs would not prove that "costly" and may even be beneficial. Echoing John Stuart Mill's argument that permanent change must come from within a country, the degree of "borrower ownership" (the level of recipient commitment to the policies) has proven very important to the success of structural adjustment programs.<sup>25</sup> Thus, the majority of successful SAPs could be implemented within a system in which LDC governments approach donors with plans and request balance of payments assistance during a crucial period of restructuring. In many ways, respect for state sovereignty is likely to restructure how "business gets done" more than what is accomplished.<sup>26</sup>

In addition, following Mill's "change from within" argument and the concern for government institution building prevalent in the development literature, respect for recipient state sovereignty may accomplish much on its own. Rather than seeing their government (and themselves) dictated terms by the major donors, citizens of LDCs would see their governments respected as equals in international relations, thereby strengthening the state and the idea of a cohesive nation. As with all things, self-government takes practice. Good governance cannot be dictated.

### Endnotes

1. See "Rich and Poor" in Peter Singer, *Practical Ethics*, Second Edition (New York: Cambridge University Press, 1993). Singer briefly mentions issues of sovereignty concluding "we have no obligation to assist countries whose governments have policies that will make our aid ineffective" (p. 241). For a more wide-ranging discussion of the ethics of foreign aid, see Brian R. Opeskin, "The Moral Foundations of Foreign Aid," *World Development* 24:1 (1996), 21-44. Also see Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, Second Edition (Princeton: Princeton University Press, 1996) for an argument supporting foreign aid based on basic rights.
2. For numerous examples see Klaus Knorr, *The Power of Nations: The Political Economy of International Relations* (New York: Basic Books, 1975), 176-182.
3. See Sarah Tisch and Michael Wallace, *Dilemmas of Development Assistance: The What, Why and Who of Foreign Aid* (San Francisco: Westview Press, 1994), 57.
4. Roger Riddell makes a similar point in "Ethics of Foreign Aid," *Development Policy Review*, 4:1 (1986), namely that "foreign aid is not an end in itself." (p. 28)
5. References to Marcos corruption and aid are widespread; Robert F. Zimmerman provides a very apolitical summary: "Aside from the employment around the bases, most Filipinos appear to

have experienced little measurable economic development benefits from the [U.S.] aid." *Dollars, Diplomacy, and Dependency: Dilemmas of U.S. Economic Aid* (Boulder: Lynne Rienner, 1993), 113-114.

6. Mick Moore and Mark Robinson also point out donor obligations in "Can Foreign Aid be Used to Promote Good Government in Developing Countries?," Joel H. Rosenthal, Editor, *Ethics & International Affairs: A Reader* (Washington: Georgetown University Press, 1995), 286.

7. For more discussion of aid fungibility, see H. W. Singer, "External Aid: For Plans or Projects?," *The Economic Journal* 75 (September 1965), 539-545; Victor Levy, "Anticipated Development Assistance, Temporary Relief Aid, and Consumption Behavior of Low-Income Countries," *The Economic Journal* 97 (June 1987), 446-458; Howard Pack and Janet Rothenberg Pack, "Is Foreign Aid Fungible? The Case of Indonesia," *The Economic Journal* 100 (March 1990), 188-194; Nasir Khilji and Ernest Zampelli, "Fungibility of US Assistance to Developing Countries and the Impact on Recipient Expenditures: A Case Study of Pakistan," *World Development* 19:8 (1991), 1095-1105; Nasir Khilji and Ernest Zampelli, "Fungibility of U.S. Military and Non-military Assistance and the Impacts on Expenditures of Major Aid Recipients," *Journal of Development Economics* 43:2 (1994), 345-362; and Tarhan Feyzioglu, Vinaya Swaroop and Min Zhu, "Foreign

Aid's Impact on Public Spending," Mimeo (Washington: World Bank Policy Research Department, 1996).

8. Jean Bodin, *On Sovereignty: Four Chapters from the Six Books of the Commonwealth*, Edited and Translated by Julian H. Franklin (New York: Cambridge University Press, 1992), p. 1.

9. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, Translated by George Schwab (Cambridge: MIT Press, 1985), p. 5.

10. J. Bryan Hehir, "Intervention: From Theories to Cases," *Ethics & International Affairs* 9 (1995), p. 4.

11. Stanley Hoffmann calls attention to this "lack of guidelines" in his Morgenthau lecture, "The Political Ethics of International Relations," Joel H. Rosenthal, Editor, *Ethics & International Affairs: A Reader*, 31-32.

12. This argument draws on Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977), especially pages 53-54 and 98-99. The position I take on legitimacy, which may include non-democratic governments, is largely consistent with that of John Rawls, "The Law of Peoples," *Critical Inquiry*, 20 (Autumn 1993), 38-64. For alternative views, see Shue, *Basic Rights*, especially Chapter 3 on liberty as a basic right and Fernando R. Tesón, "The Rawlsian Theory of International Law," *Ethics & International Affairs* 9 (1995), 79-99. Ultimately, even the relatively strict definition

of legitimacy that I present leaves room for subjectivity -- what constitutes a substantial majority, continual threat of force, or widespread violations?

13. For support of territorial rights, see Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equity* (New York: Basic Books, 1983), 42-51.

14. One could imagine a case where an economic policy of Country A that directly threatens the welfare of Country B is justified if the policy is vital to the welfare of the citizens of Country A and only slightly harmful to the welfare of the citizens of Country B. Thus, to be more precise, prohibited policies present a disproportionate and direct threat to the welfare of the citizens of Country B or are intentionally harmful.

15. Ann van Wynen Thomas and A. J. Thomas, Jr., *Non-intervention: The Law and Its Import in the Americas* (Dallas: Southern Methodist University Press, 1956), 411 as quoted in Bartam S. Brown, *The United States and the Politicization of the World Bank: Issues of International Law and Policy* (New York: Kegan Paul International, 1992), 85, note 108.

16. Knorr, *The Power of Nations*, 174.

17. Brown, *The United States and the Politicization of the World Bank*, 42-43.

18. David A. Baldwin, *Economic Statecraft* (Princeton: Princeton University Press, 1985), 299 as quoted in Brown, *The*

*United States and the Politicization of the World Bank*, 42, note 43.

19. This domestic analogy may appear to fall prey to what Richard N. Cooper terms the ethical fallacy of "anthropomorphizing nations" in "Panel Discussion," in Jagdish N. Bhagwati, Editor, *The New International Economic Order: the North-South Debate* (Cambridge: MIT Press, 1977), 354-358. However, respect for state sovereignty is directly based on respect for individual self-determination, viewing the legitimate state as the method of aggregation. Indeed, this essay is wholly consistent with Cooper's position; the arguments against unconditional aid recognize that aid to a poor country does not automatically translate into effective aid for the poor in that country. The position taken is also consistent with that of Frenando R. Tesón in *Humanitarian Intervention: An Inquiry into Law and Morality* (New York: Transnational Publishers, 1988), not falling into what he terms "the Hegelian myth." Since respect for sovereignty is conditioned on the legitimacy of the state, I do not attribute any rights in international affairs to the state which do not derive from the rights of its members.

20. This assumes that the person is fully informed about what we offer and that the proffered assistance does not conflict unnecessarily with the individual's convictions (e.g., offering pork to a starving Moslem when we also have chicken).

21. Equating LDC citizens with children is clearly inappropriate as it denies their moral agency and overstates their dependence on the state.

22. Giovanni Andrea Cornia, Richard Jolly, and Frances Stewart, Editors, *Adjustment with a Human Face* (Oxford: Clarendon Press, 1987).

23. These arguments must be conditioned on judgements about the legitimacy of the government. Taking the Freedom House ratings as a rough guide, approximately one third of the developing/transition countries fall into each of the categories "free," "partly free" and "not free." See James Finn, General Editor, *Freedom in the World: The Annual Survey of Political Rights and Civil Liberties, 1994-1995* (New York: Freedom House, 1995), "Table of Independent Countries Comparative Measures of Freedom," 678-679.

24. See Robert Klitgaard, *Tropical Gangsters: One Man's Experience with Development and Decadence in Deepest Africa* (New York: Basic Books, 1990) for an illuminating account of the process in Equatorial Guinea in the late 1980s.

25. In his 1857 essay "A Few Words on Non-Intervention," Mill argues that the domestic process, unhampered by outside interference, is more important in the long run than any current situation or policy: "... liberty which is bestowed on them [the people] by other hands than their own, will have nothing real,

nothing permanent." John Robson, Editor, *The Collected Edition of the Works of John Stuart Mill, Vol. XXI: Essays on Equality, Law, and Education* (Buffalo: University of Toronto), 122.

26. Current discussion at the World Bank indicates at least an intellectual shift from explicit conditionality to "selectivity" (implicit conditionality with an emphasis on borrower involvement). See Joan M. Nelson, "Promoting Policy Reforms: The Twilight of Conditionality?," *World Development* 24:9 (1996), 1551-1559.