

THE ETHICS OF NATURAL DISASTER INTERVENTION

by

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ABSTRACT

Natural disasters are social disruptions triggered by physical events. Every year, hundreds of natural disasters occur and tens of thousands of people are killed as a result. I maintain that everyone would want to be provided with assistance in the aftermath a natural disaster. If a national government is not providing post-disaster assistance, then we expect that some other institution has the responsibility to provide it. Unfortunately, that is not the case currently. Therefore, in this thesis I argue that in some situations the international community is required to intervene on behalf of those affected by the disaster caused by a natural hazard. Natural disaster intervention is a moral requirement: because the international community has a duty to provide the goods we are entitled to as per the human right to welfare, even in natural disaster scenarios. After making my argument as to why a natural disaster intervention policy should be developed I explain the basic principles of such a policy by applying the Just War criteria to natural disaster scenarios in which a national government is unable or unwilling to provide assistance to its people.

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CHAPTER 1: INTRODUCTION

Natural disasters are events which strike with little or no warning. In 2013, 330 natural disasters were registered globally and altogether these disasters killed 21,610 people (Centre for Research on the Epidemiology of Disasters, 2014). A year later, the Centre for Research on the Epidemiology of Disasters registered 328 natural disasters, which killed 18,740 people. These statistics do not speak to the devastation caused to homes, infrastructure, local and national economies and the lives of those affected by the events. In 2014 alone, over 107 million people were affected by natural disasters (Centre for Research on the Epidemiology of Disasters, 2015).

The International Disaster Database was established “to rationalise decision making for disaster preparedness, as well as providing an objective base for vulnerability assessment and priority setting” (CRED, 2015). The number and impact of natural disasters is tracked and recorded so that we can evaluate how successful efforts to prepare and respond to these disasters are. While we can create better methods of prediction, reduce the conditions that are likely to increase the magnitude of natural disasters, and create preparedness plans which make us better equipped to respond, we cannot prevent natural disasters from occurring. For this reason, we must live with a constant threat and simply hope that we have done enough to prepare for when the ‘big one’ finally does hit our own country, village or home.

One of the things we hope for is that our governments, those elected officials tasked with keeping us safe, have made adequate plans for any possible emergency. However, let us imagine that a national government is unable to provide adequate

assistance. Perhaps this is because they are unprepared for a particular type of a disaster. Possibly the government officials have themselves been killed or incapacitated by the disaster. Worse still, we could even imagine a situation in which a national government refuses to provide assistance to those affected within the country's borders. Perhaps in this case the government does not see the real impact of the disaster. Alternatively it could be a corrupt regime, uninterested in helping a particular group affected by the disaster.

What should we do in these kinds of circumstances? The current global norms and international regulations on the matter dictate that we should not forcefully interfere. By doing so, it is argued, we would upset the balance of international peace and security. Instead, we should merely try to persuade the affected governments or those we can identify as having some level of authority within the country to accept offers of assistance.

If I were one of the humans affected by a natural disaster, I would not accept the global norms or the international regulations as a good enough excuse for not being helped. If you were the individual affected by a natural disaster and your government refused to provide you with any life-saving or life sustaining support, how would you react to this? It is reasonable to assume that you too would hope for someone to help regardless of the international norms of when assistance can be forcefully provided.

This thesis is driven by the notion that we would all want to be provided with assistance post-natural disaster should we need it. Indeed, we should all be able to make a claim for assistance should the need arise. In this thesis I will argue that

those affected by natural disaster are no less deserving of assistance than those affected by other emergencies. For this reason, I will argue that we should develop international policies for using military force to provide assistance in natural disaster scenarios when a national government is either unable or unwilling to provide assistance to its people.

1.1 Natural Disasters

Sudden onset, high intensity natural disasters are the topic of this thesis because they are the natural hazard equivalent of war and situations of human-imposed mass death. A natural disaster, just like the dropping of a bomb or chemical attack, is a specific incident which requires a specific response. Whilst extensive disasters such as famine, climate change and poverty are destructive and horrible, they are not the type of emergency which requires or normally trigger immediate, proportionate response as argued for in this thesis.¹

In this thesis I will focus on the fact that natural disasters are not an accepted reason for military intervention in the academic literature or in global policy (see Chapter 6). This is a major lacuna in the philosophical literature as it pertains to natural disasters. To understand that gap and address it I herein propose a philosophical apparatus which will creatively synthesize intervention literature and put natural disasters into the philosophical, intervention, and cosmopolitan ethics literature.

¹ Slow on-set disasters are the outcome of a grouping of factors and can be even more disastrous than those with a specific trigger. However, these types of emergency situations and the international political, economic and social changes needed require international development type response. Assistance to those affected by intensive disasters is the topic of this thesis because it is under-represented in the literature. Furthermore, those affected by natural disasters are often dismissed as the responsibility of a national government and thus little attention is paid to their continued suffering and the violation of their human right to welfare. This is the ethical issue I aim to explain and address in this thesis. See also footnote 3 for discussion of intensive vs extensive disaster risk.

However, to provide the philosophical mechanism I suggest, I analyse natural disasters from outside the philosophical literature. I provide a basic explanation of natural disasters here in this section. I expand upon that explanation and show its direct relevance to my thesis in Section 1.3.1. I then provide practical information about phases of disaster response in Section 2.1 so as to make sense of the case studies provided in Chapter 2.

As for a basic explanation, I discuss here how natural disasters will be understood in this thesis. The literature has come a long way from Voltaire's suggestion that a natural disaster was simply God's punishment for our sins (Dynes, 2000, p. 99; Voltaire, 1918).² Despite this, natural disasters are still quite difficult to define. Often we simply know what counts as one based on our own previous experiences.

Let us begin with 'disasters'. According to Naomi Zack, a disaster "involves great harm to a large number of people" (2011, p. 2). Hence, while a disaster usually involves destruction of property, drastic harms and casualties, it need not result in death. Disasters involve a hazard, existing vulnerabilities and an inability of those in authority to respond to the event (National Disaster Coordinating Council (Phillipines), 2010). More than that, though, disasters are multi-layered, multi-faceted outcomes of societal problems; they are the after effect of any number of intersecting issues – economic, social, cultural, technological, or environmental (Kelman, 2008). In this way, disasters are dynamic and, as explained by the Sendai Framework for Disaster Risk Reduction, often result from poor risk aversion from state agencies in coordination with relevant stakeholders (UNISDR, 2015). Ultimately, disasters create

² The same cannot, however, be said for the political and religious rhetoric that surrounds the debate over why natural disasters happen.

chaos: they harm the health and well-being of people in a given society (Quarantelli & Dynes, R, 1973). Harm to the health of people and property are therefore central components of a disaster (see also Nesmith in (Convery, et al., 2008, p. 6).

Meanwhile, Dynes suggests that there are four ways of understanding a disaster: “the physical agent, the physical consequences of the agent, the way in which the impact of the physical agent is evaluated and the social disruption and social changes brought about by the physical agent and its impact” (cited in (Quarantelli & Dynes, 1977). Here Dynes claims that the physical event’s impact on society is the key component in defining disaster. Still, Quarantelli notes that the background and experiences of the person describing the ‘disaster’ will drastically impact how a disaster is defined (Quarantelli, 1998, p. 242). So, while a disaster has recognizable features and measurable impact, it is not simply the impact which characterizes a disaster.

Interestingly, even if these are not temporal or quantifiable explanations of disasters, disasters are still always situated in a specific time and place (Convery, et al., 2008, p. 7; Neal, 1997, p. 259). As it will become clear in later chapters, we cannot talk about disasters purely in terms of numbers or time frames. We must understand what impact a disaster has had on the humans affected and what this means for the society.

And so, for the purpose of this thesis, let us take from these characterizations of the term that a disaster is a physical event that impacts society in a harmful, yet indeterminate way. Disasters exist at the intersection of social, ecological, political and economic situation and some trigger event. War, conflict, gas explosions,

building fires, can all represent types of disasters. The type of trigger event that I am interested in in this thesis are natural hazards. Just as a disaster need not flow from a natural hazard, a natural hazard may not result in a disaster (UNISDR, 2017).

I move now to explaining 'natural' in the context of natural hazards. Defining this term without resorting to a circular definition is quite difficult. I will begin from a dictionary definition of 'natural' because it is so common a term that we all have slight variations in our understanding. The Oxford English Dictionary gives the following definition: "existing in or derived from nature; not made or caused by humankind" (Oxford English Dictionary, 2015). For the purpose of clarity I will use the second definition – not made or caused by human beings. In this thesis, 'natural' will refer to environmentally based phenomena and not to those events that are in some way influenced by humans. For reasons explained later in this chapter, it is important to make this distinction and narrow the scope of my argument.

By combining the previous explanations of disasters and the term 'natural', I can describe a 'natural disaster' as follows: a social disruption or impact triggered by a phenomenon of the physical world. Note that this does not include the size of the natural phenomenon, nor does it include the number of people affected. This is consistent with Neal's suggestion that natural disasters are best understood qualitatively and not temporally or quantitatively (Neal, 1997).

Now, there is something to be said for natural disasters being irrevocably and causally linked with human factors. Drilling for water or fracking for natural gas can be said to (at a minimum) increase the number of earthquakes in a given area (Amos, et al., 2014). Anthropogenic climate change has been linked to an increase

in ocean temperatures. When the oceans are warmer by even a single degree hurricanes become stronger and hence more destructive. Indeed, vulnerability (including poverty), under-development, and corruption can contribute to a process by which a natural hazard becomes a disaster (Lewis, 2010; Blaikie, et al., 2003). Hence the idea that natural disasters are simply 'natural' is a fallacy.

I cannot (and do not want to) argue with the causal links between human action and the resulting natural disasters. Instead, I find natural disasters to be even more interesting as a result. A philosophical approach to the disasters caused by natural hazards does not exist and hence we have no way of investigating our duties and responsibilities in such emergencies regardless of whether there are causal links or not. As well, the humanitarian intervention literature (and associated policies) purposely removes 'natural disasters' from its focus suggesting that they are separate emergency types (Wheeler, 2010; Archibugi, 2004). Indeed, the intervention literature (separate from the development and relief literature) does not pick them back up and discuss how to respond after a tsunami or earthquake whether we consider those hazards to be natural or human-influenced anyway.

Hence I am interested in specifically 'natural disasters' because they are excluded from the literature and from international policy. If we want to talk about the social construction of natural disasters, resilience to natural hazards (and the problems different groups will have to becoming resilient) we need to put natural disasters into the philosophical literature. (See Section 2.1 for discussion of preparedness, disaster resilience and the social component of natural disasters.) Then we can begin to unpack the different aspects of natural disasters which would benefit from philosophical enquiry.

Following from this I list here events that are commonly understood as natural disasters without having to justify their being natural disasters in line with a quantitative or temporal definition. The National Geographic, an American non-profit scientific and environmental institution, lists the following as natural disasters: avalanches, earthquakes, floods, hurricanes, lightning, tornadoes, tsunamis, volcanoes and wildfires (National Geographic, 2015). This is not an exhaustive list by any means. I would add drought, hail storms, snow storms, and possibly even solar storms among others (FEMA, 2013).

I move now to examining what type of natural disasters I will discuss in this thesis and why. In 2014, Chile experienced a series of earthquakes which killed six people. According to official reports, over a million people were displaced due to the threat of tsunami (Reuters, 2015). This would qualify as a natural disaster under my understanding of the term. While there were not a high number of fatalities, the earthquake created a huge disruption to society: escaped prisoners had to be re-apprehended; special forces were called in to guard supermarkets and private homes from looters; adobe houses in rural communities unable to withstand the earthquake crumbled causing death and homelessness (Franklin, 2014).

There are often earthquakes which cause the ground to rumble, make people dizzy and disrupt the normal daily routine of society. These, however, would not qualify as natural disasters under my use of the term. You will note that I accept that an event can be a natural disaster even when there is a low fatality rate. However, simply making a lot of people uncomfortable is not enough for an event to qualify as a disaster. The point here is not to offer a number of affected people which qualifies an

event as a natural disaster. Instead, the point is to show that the event must be large in scale.

Likewise, a physical phenomenon that does not impact humans can, of course, be of a grave concern. For example, consider a situation in which an earthquake occurs in Antarctica and 1000 penguins are injured. There has been no disruption to the ice sheets and there were no humans in the area of the earthquake. An earthquake, a natural hazard, still occurred. However, we need not call it a natural disaster in the sense of the term I am interested in because there was no (human) social disruption.

1.2 Scope of the thesis

The idea that a natural hazard must affect humans in order for it to count as a natural disaster is just one area in which discussions about 'natural disasters' can become contentious. As a contentious thesis I do not expect the conclusions of this thesis to be accepted in the near future. Discussions of whether we should intervene militarily after a natural disaster first occurred during the development of the Responsibility to Protect (see Chapter 6) and then were re-energised when Cyclone Nargis hit Myanmar in 2008 (see Section 2.6 and Chapter 7) (Bowley & Erlanger, 2008; Evans, 2008). Unfortunately, these discussions ended as soon as they began. I expect that a large scale natural disaster which resembles the emergency in Burma and the scenarios of Chapter 6 will trigger a second debate on the topic in the future. My hope is that my argument for the development of a natural disaster intervention policy, based on the human right to welfare, adds to this debate and contributes to ethical solutions proposed.

I set out the scope of my thesis here so that the consequences of my argument will be clear. Of course, I will not be able to discuss all elements of the natural disasters simply because of space constraints. Additionally, I will not address harms directly caused by human actions or the so-called ‘man-made’ disasters. Both of these will raise additional issues, which I mention here but will not have room to discuss in detail.

First, then, I will not discuss harms that have been directly caused by human actions or those disasters to which human activity has contributed to the occurrence (see (Kelly, 2014)). So, the looting, police brutality and protests that occurred in New Orleans after Hurricane Katrina were terrible and contributed to the ongoing crisis situation. However, these acts are purely human acts. Likewise, I will not comment on the poverty situation in Louisiana which contributed to citizens’ inability to evacuate and hence the exacerbation of the disaster. I will focus only on the hurricane and its immediate impact in this thesis.³

Additionally, explicitly ‘man-made’ disasters are purposely absent from my analysis. These disasters are excluded because they are either caused by humans or

³ Intensive risks are defined as the “risk associated to high-severity, mid to low-frequency events, mainly associated with major hazards”; extensive risks, alternatively, are “low-severity, high-frequency” events (PreventionWeb, 2015). I focus on intensive as opposed to extensive disaster risk in this thesis because I am interested in the response to the hazard in question instead of the factors which contributed to its development into a disaster. The issues of poverty and social vulnerabilities are rightly identified as contributing factors in the creation of disaster. These are, however, the topic of more developmentally-focused research projects which already enjoy extensive analysis and which investigate vulnerability and a lack of resilience as contributing factors in disasters (Cutter, et al., 2008; Carter, et al., 2007) Response to intensive risks, those that cause high-severity damage in a specific location, are consistently understood as the responsibility of a national government (Tokunaga, 2014; IFRC, 2007). The fact that there is no mechanism for the international community to support those affected by an intensive risk natural disaster (when a national government cannot/will not provide consent) is unethical and deserves analysis. Of course poverty and social vulnerabilities should be addressed, but it is likely that some vulnerability will exist no matter how much we address these pre-existing conditions. Hence, we must be prepared to respond to intensive risk disasters. See further discussions in 1.1 and footnote 24 in Section 2.2.3.

influenced by human action, which leads to difficult debates about responsibility and compensation. Admittedly there are instances where there is overlap between 'natural' and 'man-made' categories. However, for the purposes of this study it is both possible and useful to make the distinction between natural and man-made disasters and to focus on the former.

For example, as a consequence of the anthropocentric global warming, natural disasters are now more frequent. The Intergovernmental Panel on Climate Change has noted that increased global temperatures contribute to changes in the likelihood of the occurrence and the strength of extreme weather (Intergovernmental Panel on Climate Change, 2013). Storms may also decrease in number as temperatures between the poles and equator converge and yet they may become more intense (NASA, 2015). Some climate-change related disasters, such as the melting of polar ice caps and the resultant rise in sea-level, will not be discussed in my thesis because they are long term issues with ample warning time for responders and policymakers.⁴

It must also be noted that some disasters are too strongly linked to man-made factors to be adequately addressed by my suggested natural disaster response plans alone. For this reason, I do not intend to address situations like famines or oil spills either. Famine, while most often caused by drought, has a very large man-made component, which exacerbates an already difficult situation. One cannot adequately address famine without considering food security, armed conflict,

⁴ While I will not discuss climate change in this thesis, the resultant storms should be included as 'natural disasters'. Sudden on-set natural events pose a threat to human life no matter the cause. The fact that they will happen more frequently and will likely be more intense is a climate issue. The fact that storms will involve extreme weather and are highly unpredictable does not hinge on this frequency or intensity.

genetically modified alternative sources, global trade and the price of staple products on the international market. While such concerns are relevant and clearly exacerbate natural disasters, it is impossible to address famine from a purely natural disaster perspective. Similarly, oil and chemical spills are caused by the pursuit, transport and use of crude oil and toxic chemicals. Nuclear plant explosions and leaks, as well, result from human error in the pursuit of energy. These hazards are therefore too closely linked to human error to be analysed like a natural disaster in this thesis.

Also, responses to those incidents that fall outside the category of natural disaster are very often accounted for in international policies. Norms of behaviour often dictate how countries should act to aid those in their countries who are affected by incidents categorized as emergencies or conflicts. I have thus narrowed the scope of this thesis to focus solely on international response to natural disasters precisely because it falls outside existing norms and policies for how the international community should militarily respond. By narrowing the scope in this way I will attempt to address the gap in the international military response literature, policy and practice.

Importantly, in writing this thesis I am not ignoring or undermining the extensive loss of life in disease, hunger and conflict (Blaikie, et al., 2003). The number of lost lives in these disasters far outweighs the number of deaths due to natural hazards.⁵ However, and once again, disease, hunger and conflict are dealt with or at least approached through very specific projects and international policies.

⁵ According to the World Health Organization, in 2013 deaths due to conflicts alone were well over 100,000 (World Health Organization, 2016). This five times the number of deaths due to natural disasters that same year (see Introduction).

Likewise, I am not suggesting that natural disaster response is a forgotten type of response. Globally there are many reciprocal emergency response agreements in place which allow for consensual foreign emergency response (NATO, 1998; European Commission, 2011; Office of the Press Secretary, 2006). However, there is no mechanism or agreement on how to proceed in natural disaster scenarios when a national government cannot or will not consent to assistance. A non-consensual response with force is rejected by the international community for reasons discussed throughout this thesis. I argue, though, that its absence is possibly damaging to the rights of those affected by a natural disaster and hence the international community must be more proactive in developing policy in the event of state-level non-compliance.

1.3 Methodology

Using three literatures from three different fields of study I provide an explanation of my philosophical approach and method in this section. As an interdisciplinary philosopher, this thesis is interdisciplinary in approach. I have positioned myself at the overlap of three distinct areas of literature: disaster studies, humanitarian intervention (within the broader international relations discipline) and cosmopolitanism (within the philosophical and global ethics disciplines). Whilst the literatures themselves have clear and definitive lines between them there is an interesting overlap which I will exploit in this thesis to provide justification for my development of natural disaster intervention policy.

Thus in this section I set out key components of three literatures and point to where I relate to it throughout the rest of the thesis. In Section 1.3.1 I engage with disaster

studies including the agents of disaster, how natural disaster response has a distinct character amongst other types of response and may contain a military component, and finally the role of preparedness in natural disaster response. This discussion provides a base from which I can make a wider argument about why policy as I suggest is appropriate. In Section 1.3.2 I engage with humanitarian intervention as a theoretical and practical exercise and how it has evolved from being statist to being driven by human rights norms. However, humanitarian interventions will not be carried out for natural disasters for reasons I discuss below; this is problematic and a gap in the intervention literature. Cosmopolitanism makes sense of the normative shift toward the primacy of human rights in humanitarian intervention as well as the requirements of disaster ethics. In Section 1.3.3 I therefore discuss cosmopolitanism as a theoretical approach to global policy and I make the case that our insistence that humanitarian intervention emanates from state-based duties is both untrue and unnecessary. I therefore make the case in Section 1.3.4 that at the overlap of disaster response, humanitarian intervention and cosmopolitanism there is a gap in global policy which I will fill with the development of a natural disaster intervention policy. In Section 1.3.5 I explain the comparative analysis I carried out as a methodological approach to resources used in this thesis.

1.3.1 Disaster Studies & Ethics

I begin here with the literature on disaster response and the corresponding ethics which spans centuries and requires knowledge of an array of fields including geography, communications, logistics, and emergency medicine to name a few (O'Mathuna, 2015; Voltaire, 1918; Quarantelli, 1998; Quarantelli & Dynes, R, 1973; Alexander, 2015; Quarantelli, 2000). I have grounded my thesis in certain claims

about natural disaster response and I relate to it in my thesis for several reasons. First, there is a distinction to be made between natural and other agents of disasters⁶. Second, force is often used in natural disaster response and thus the use of force may be justified in certain circumstances. Third, there is a role for preparedness in disaster response. Using these claims I will explain how disaster ethics should be applied to natural disaster scenarios.

First, on agents of disaster, my thesis is specifically about natural disasters and does not refer to other agents as the cause of a disaster. Quarantelli explains that such a differentiation does not change the degree to which humans prepare for and/or react to a given emergency (Quarantelli, 2000). Hence differentiating would be an exercise in futility in that emergency response plans need to account for human reaction to, instead of the cause of, a disaster (as I explained in Section 1.1).

However, international policies already do differentiate and specifically remove *natural* disasters from the list of possible reasons for the international community to take action. For example, the EU Solidarity Fund was established in 2002 to support European countries in the aftermath of *natural disasters* (European Commission, 2015). Indeed, the debates leading to the development and implementation of the Responsibility to Protect doctrine removed natural disasters as a trigger because it was thought it would make the RtoP doctrine too demanding (see Sections 5.2.3 & 7.3.4). Thus this would undermine international consensus and adoption (Thakur, 2008). Likewise, in developing a cosmopolitan approach to humanitarian intervention, Archibugi explains that natural disaster response is a separate type of

⁶ Whilst I continue to use the term 'natural disaster' in this thesis (see Section 1.1 for an explanation of why), it is possible to discuss the emergency in terms of a natural agent which triggers a disaster. For more see (Blaikie, et al., 2003)

response taken by national governments and without a military component (Archibugi, 2004). Hence in talking about 'natural disasters' I may not be consistent with current academic disaster literature. It is, however, appropriate for me to differentiate between natural and other agents of disaster in order to show that there is a gap in the humanitarian, cosmopolitan and philosophy literature as well as in the relevant international policies.

The second area of the disaster literature I will address is the use of force. Many will question my inclusion of the use of force in natural disaster response within my thesis. However, even with civilian authorities remaining in charge, it is widely accepted that a military force may be called upon when "...it appears that civilian resources will be inadequate" (Anderson, n.d., p. 417). Indeed, military participation in a natural disaster response is far from abnormal. Sometimes it is vital to the integration of specialist personnel, equipment and logistical support (Anderson, n.d.).

In fact, many emergency management agencies had their origins in civil defense. Military-style resources and staff have been used in both civilian and military operations where necessary (Quarantelli, 2000). This tradition continues with Civil Defense forces in Russia (EMERCOM) and Italy (Civil Protection Department) among others who are called up to respond to civilian emergencies (EMERCOM of Russia, 2017; Protezione Civile, 2017). Additionally, National Guard troops in the US respond to emergencies (very often natural disasters) when called upon by their Governor or when nationalized by the United States President if an emergency requires it (Soucy, 2012; Stuhltrager, 2006). It is therefore not a leap to suggest that military force may be necessary to provide assistance and stabilize a region in the

aftermath of a natural disaster as I will demonstrate in Section 3.3 and argue in Section 6.2 and Chapter 7.

Furthermore, military control over a particular emergency (in non-military led democracies, at least), is rarely implemented and then only under severe circumstances (Stuhltrager, 2006; Matthews, n.d.). However, the structures are in place to call upon domestic militaries should they become necessary and there has been a growing trend toward extended use of such assets in natural disaster response (Bawden, 2014; Hofmann & Hudson, L, 2009). I am not suggesting that possible military control over natural disaster responses should be the default response. Instead, we must recognize that using military forces in natural disaster responses is not as abnormal as some may think as I will argue later.

Finally, so as to maintain the balance of civilian over military response, there is a need for proper preparedness which accounts for all possibilities. There are the obvious logistical and operational preparedness aspects of the disaster cycle. However, the type of preparedness to which I turn in this section is that which morality demands. This helps to create a link between disaster response and the ethics that run through humanitarian intervention and cosmopolitan theory and thus that run through this thesis.

Emergency planning involves systematically preparing for an unknown future disaster (Alexander, 2015). Realistically not all humans can be saved in a disaster (Zack, 2011). Likewise, different countries respond to disasters in different ways and some may not have the capacity to respond appropriately. Walzer goes so far as to

suggest that the circumstances of 'supreme emergencies' may require that normal rules of practice be overridden or suspended (2004).

Instead, I contend that proper preparedness which keeps us in line with our peacetime ethics and which will help save the maximum number of people is possible. Indeed, I argue with Zack that disaster ethics – how we treat and support the individuals affected – should not be situation dependent (2011, p. xiv). We do not need to consider the setting aside our ethics in emergency situations. If we follow Naomi Zack's approach to *Disaster Ethics* instead of Walzer's *Emergency Ethics* there should not be a need to suspend our morals when faced with a crisis (2004; 2011). With the best preparation possible, as Zack suggests, our day-to-day focus on individual human rights should be enforceable on a larger and more urgent scale (2011).⁷ This point by Zack is one of the reasons I make a strong case for international preparedness (see Sections 2.1 and 7.1) in the event that a national government is unable or unwilling to assist its own people after a natural disaster.

Zack's insight into disaster ethics comes from her recognition that a triage approach to disaster response (because of its prioritization of certain individuals over others) is insufficient. Hence whilst she supports the utilitarian adage of Save the Greatest Number, she provides a caveat which suggests a move away from a purely utilitarian approach to emergency situations. Carrying out the greatest preparation possible will necessarily involve the recognition that every state-based plan may go wrong or be

⁷ Furthermore, Zack suggests that there is in fact a need for such interdisciplinary research into state government duties to provide for the needs of those affected by disaster through proper preparedness and where individual preparedness has proven insufficient. She bases this obligation on an extended version of the social contract where, she claims, it is necessary to improve the situations of individuals in the aftermath of a disaster, or what she refers to as a second state of nature (Zack, 2011, pp. 76-77). Whilst I will not engage with social contract specifically, in this thesis I provide the beginning stages of that interdisciplinary research.

ignored; this does not, however justify poor assistance offered to those affected by a disaster.⁸

I contend that her move away from traditional approaches to disaster ethics provides space for a cosmopolitan approach to disaster ethics. She provides a way for us to focus on the individuals affected. In this way, disaster ethics is (or should be) cosmopolitan in nature. This thesis is thereby positioned in the middle ground: between cosmopolitan justice for those suffering the effects of a natural disaster and the realistic expectation of how many people can be saved/assisted given the circumstances at the time.

Hence, a well-prepared disaster plan may save the greatest number but, more importantly, will ensure that the saving of each individual is accounted for in those plans. (I will explain in Section 1.3.3 how a cosmopolitan approach to disaster ethics consistently prioritizes individual rights over state rights and argues for saving humans because of their inherent moral worth (Pogge, 1992; Caney, 2010).) In order to be consistent with a cosmopolitan approach to disaster response, as I argue for, when a national government is unable or unwilling to provide assistance to its own people I provide an ethical justification for natural disaster intervention in this thesis.

1.3.2 Humanitarian Intervention

Before moving to the overlap between disaster studies and cosmopolitanism I will first discuss humanitarian intervention. The humanitarian intervention literature

⁸ With this, Zack accepts resource limitation as a reason for not being prepared but not as a reason for ignoring our common morality.

already benefits from the application of cosmopolitan theory and is the closest established field of study to natural disaster intervention as I argue for in this thesis. I include the humanitarian intervention literature here as a way of showing what international policies and norms exist currently and hence what is possible for natural disaster intervention. Thus I will first note the reasons given in the literature for carrying out a humanitarian intervention, namely international stability and individual rights, so that I can make a full argument on justifiable reasons for intervention in Chapters 5 & 6. Having explained the ethics which have historically underpinned humanitarian intervention (which I link to Walzer most notably) as well as the ethics which currently ground humanitarian intervention (which I attribute in main part to Wheeler) I move to explaining what ethics *should* drive humanitarian interventions.

I begin with the reasons for carrying out humanitarian interventions as described in the literature: international stability and, more recently, human rights (see Sections 5.2 and 6.1 for further discussion of these norms). Michael Walzer provides a thorough explanation of the perils of humanitarian intervention and affirms the need for justifying any intervention. He rightly explains that interventions will likely result in additional suffering or disturbance to the peace and well-being of a given territory. Foreign armies should thus be prohibited from intervening in any country because of the special relationship between citizen and state and the benefits individuals receive as a result of this relationship (Walzer, 1980). (These benefits can be understood as the benefits of sovereignty (see Section 8.2).)

Walzer explains that the reason for carrying out an intervention should primarily be to restore or protect international stability and thus asserts the primacy of internationalism. By this he means maintenance of the international state system and

the need for peace and security within it. Indeed, he argues that interventions should be carried out only as exceptions to the normal rules of sovereignty (Walzer, 2006, pp. 90-91). Intervention to stem the advance of violence from one country to the region and the world may therefore be justified (1995).

Our obligations to other humans are thus secondary, supportive reasons for an intervention justified on the grounds of international stability according to Walzer (1995). On this, the traditional view of what a moral justification for humanitarian intervention would look like, it could be argued that only genocide may be a strong enough reason enough to intervene. Indeed, when suffering is extreme and 'shocks the conscience' of humanity, an intervention may be necessary (Walzer, 1995).⁹ According to Walzer this blend of practical and moral reasons for intervention is necessary because "pure moral will doesn't exist in political life" (Walzer, 2002, p. 5). Hence the practical reasons for intervening must be considered first before we will be able to garner enough support for an intervention based on moral reasons.¹⁰

I accept that intervention should be an exception to normal practice and not our go-to method of stopping injustice (Walzer, 2006, p. 91). Furthermore, we cannot intervene for all human rights abuses as that is too demanding a practice. Still further, intervention is not sufficiently justified based on the fact that domestic sources cannot end the abuse and suffering quickly (Walzer, 2002). We must indeed be careful and considered about how and when we intervene.

⁹ Additionally, any intervention must take into account the impact such an act will have on those doing the intervention and those in the country being intervened (Walzer, 2002).

¹⁰ In fact, a pure moral will is unlikely to garner enough support to maintain the intervention and accept casualties that will likely occur (Walzer, 2002, p. 6).

However, I take issue with the moral foundations of Walzer's argument. Speaking of practicalities before moral imperatives undermines the value of humanity in general. Likewise, I am interested in the moral component of state legitimacy and not the political recognition of 'legitimate' governments. Whilst a *humanitarian* intervention should be about upholding *human* rights (as I will argue in Sections 5.2 and 7.2.6), Walzer gives more practical reasons for intervention which seem to overshadow and guide decision making at the time that he was writing *Just & Unjust Wars*.

Furthermore, David Luban rightly explains that we cannot support interventions strictly into states that are illegitimate (1980). As will be discussed in Chapter 8, even legitimate states (which then have rights to non-intervention) may experience a disaster that renders them unable to support the needs of their citizens. Indeed, even legitimate states may exacerbate the suffering of their own people and still be considered politically legitimate.

Additionally, Walzer's view on sovereignty has been heavily criticized for putting states' rights, or the rights of individuals within particular state-citizen relationships, above the rights of individuals in general (Luban, 1980; Doppelt, 1978). Cabrera further criticizes Walzer's support of sovereignty as it inhibits the development of a robust global adoption of human rights norms (which puts Walzer at odds with the cosmopolitan ideal) (2010). To his credit, Walzer accepts that even he cannot consistently uphold sovereignty as absolute considering the "arbitrary and accidental character of state boundaries" (Walzer, 2006, p. 89). Additionally he has recognized that imposed suffering may come from internal sources stemming from state failure or embedded structural hatred and inequalities (Walzer, 1995). This inadvertently

supports the argument I make in Section 8.4 that sovereignty need not be the barrier to natural disaster intervention it is often said to be.

There has been recent a shift away from this justification for non-intervention in the literature (and in policy). Walzer's justifications for non-intervention stood as a norm in international relations for decades and still play a huge part in diplomatic conversations about future interventions.¹¹ In line with this movement away from the supremacy of states (discussed in Chapter 8) and the shift toward a human rights norm within international relations (discussed in Chapter 5), there is an imperative to act on behalf of the human rights of others. Indeed, Nicholas Wheeler's book, *Saving Strangers* offered international relations theorists and practitioners a practical view on the shifting norm within humanitarian intervention. Importantly, Wheeler argues for the primacy of international law based on shared norms. International law can and does create binding obligations on states because of these shared norms and thereby has legitimate authority (Wheeler, 2010).

For the most part, Wheeler endorses the Responsibility Protect and its case for intervention in scenarios where governments are committing genocide, large scale human rights abuses, humanitarian emergencies and ethnic cleansing (Wheeler, 2005). He explains that RtoP's adoption moved the intervention discussion from debates about a government's sovereignty, to the international community's responsibilities to individuals (Wheeler, 2005). This shift demonstrates the more general normative trend at the time which prioritized human rights over sovereignty. Increasingly human rights violations are seen as an appropriate justification for

¹¹ His later works provide evidence, however, that the use of force should be seen as a commitment to others to save them from suffering (Walzer, 2002).

intervention (Beitz, 2001; Donnelly, 2014; Ignatieff, 2000). It is also crucial to my thesis and my rejection of sovereignty as a reason to avoid intervention when people are suffering in the aftermath of a natural disaster.

In justifying humanitarian intervention, Wheeler utilizes the Just War tradition and sets out criteria which must be met in order to justly engage in a humanitarian intervention. Important for this discussion is his specification of a 'supreme humanitarian emergency' as a just cause for intervention (Wheeler, 2010, p. 33). He explains that setting the parameters for what qualifies as a supreme humanitarian emergency is "too arbitrary" to be effective; instead, such an emergency is one in which the only hope of survival is being rescued by those outside our political community – namely foreigners (Wheeler, 2010, p. 34).

Wheeler's justification for 'saving strangers' in humanitarian emergencies is surely ample justification for intervening when a natural disaster causes extreme risk to life and a national government is not helping its own people to survive (as I argue in Chapter 6). However, the RtoP doctrine does not include natural disasters (see Section 5.2.3 for discussion of the Responsibility to Protect which establishes certain human rights violations as grounds for intervention but purposely excludes those committed in the aftermath of a natural disaster). Natural disasters were purposefully excluded because broad consensus for RtoP's adoption could not be reached if it was too broad and was too demanding on interveners (Thakur, 2008). Considering it is not included in the list of triggers for humanitarian intervention I set out in this thesis to explain why the suffering of those affected by a natural disaster is not morally different than those caught up in one of the events that will trigger an RtoP

response. In doing this I work within the overlap of the disaster and humanitarian intervention literature.

As natural disasters are not included, though, I have the opportunity to press beyond RtoP and show why a cosmopolitan approach to natural disaster intervention is more appropriate. Hence whilst Wheeler's explanation of why we intervene to save distant others is a current and forward-leaning norm within the humanitarian intervention literature it does not push for the saving of those impacted by a natural disaster specifically. Additionally, since the RtoP doctrine specifically avoids including it, those affected by natural disasters are essentially denied being saved and hence left to suffer.

There is also a possible cosmopolitan approach to humanitarian intervention which will move us to a full adoption of the human rights norms required for natural disasters. Archibugi defines cosmopolitan humanitarian intervention as such: "A military intervention in an area for the purpose of saving peoples from democide or other major violations of human rights occurring and carried out by foreign institutions without the consent of a legitimate government." (2003, p. 3). He goes on to explain that intervention purposefully excludes action taken in the aftermath of a natural disaster which, he says is carried out by national governments and without a military component (Archibugi, 2004). It is this definition of humanitarian intervention and Archibugi's assumptions that underpin my thesis. I think Archibugi's analysis and explanation of cosmopolitan humanitarian intervention is robust and a necessary contribution to the literature on both intervention and cosmopolitanism and thus are the correct place to analyse an overlap between natural disaster response, humanitarian intervention and cosmopolitanism. However, Archibugi's assumption

that natural disasters should be excluded from cosmopolitan intervention policy requires unpacking and addressing.

Archibugi also suggests that offers of assistance in the aftermath of natural disasters are indeed often offered and consented to by the host government (Archibugi, 2004). However, there are instances in which national governments do not or will not accept foreign assistance. The Burmese government's refusal of assistance (see Section 2.6) is a prime example of a government's inability or unwillingness to accept foreign assistance. As Archibugi himself argues, "...humanitarian intervention is too precious a concept to be decided on the hoof or, worse still, invoked to mask special interests or designs on power" (Archibugi, 2003, p. 10). Hence we must take account of and prepare for the development of intervention frameworks which are not decided on whims or to mask power plays. I establish such a framework in Chapter 7.

Now, very often interventions are seen as smokescreens for imperialist intentions (see Section 7.3.1). Archibugi argues that the development of cosmopolitan institutions, as argued for by institutional cosmopolitanists (see Section 4.3.2), will firmly establish the development of norms and procedures around the needs of individuals and not states (Archibugi, 2004).¹² (The adoption of institutional cosmopolitanism will also contribute to the effectiveness of military interventions in

¹² To that end, Archibugi suggests a 'white helmet' force be established for peacekeeping operations (Archibugi, 2004). This force would have similar powers to the Blue Helmet UN Peacekeeping forces but would be neutral. It will act as a 'rescue army' to include civilians, military personnel and police officers and thus will be distinct from a strictly military force. Cabrera suggests a similar global rapid reaction force which will respond militarily to crisis under the auspices of the UN (Cabrera, 2005). This kind of force would not be used for low-level disturbances but rather for issues which are global in nature. This kind of force would be expected to respond to widespread conflict or humanitarian crisis. If that is the case there is no reason why such a similar force could not be used in response to natural disasters. This is especially so considering that natural disasters may evolve into national or regional conflict if left unchecked (see Section 7.3.4).

general.) This will move humanitarian intervention from the realm of statist politics to that of individual, cosmopolitan politics with a focus on human rights. Such changes to global institutions will re-focus our endeavours on human individuals and will ensure that authority is carried out for the right reasons and with the right authority in the aftermath of a natural disaster.

1.3.3 Cosmopolitanism

I have thus far explained the disaster studies and humanitarian intervention literature and how they relate to my thesis. In Global Ethics there is a cosmopolitan tradition which aims at developing and implementing a moral ideal. In line with that tradition I have included cosmopolitan approaches to disaster studies and humanitarian intervention to demonstrate a link between distinct literatures. Use of a cosmopolitan approach is also helpful in setting out the ethical position taken throughout this thesis. In this section I first explain why cosmopolitanism is the approach I use and then how it supports the dovetailing of the other two literatures within this thesis.

I am inspired by Luis Cabrera's position that a cosmopolitan view of global politics, and global citizenship in particular, will help us recognize all humans as "co-equal agents... justified in pressing their own interests" (2010, p. 14). Cabrera explains that a cosmopolitan viewpoint will move us away from the current norm of viewing those in developing countries as in some way "passive recipients of morally required transfers" (2010, p. 14). If we begin to see all humans as active participants in their own future the idea that anyone is a 'victim', and in some way worthy only of our pity instead of our compassion, falls away.

For humans affected by natural disasters are not 'victims'. We experience and suffer through/from a natural disaster; we do not become incapable of claiming the goods associated with human rights. In this way, we do not donate to those affected out of some moral duty to support the less fortunate (Cabrera, 2010, p. 19). We provide assistance (donation or otherwise) because humans continue to claim the goods associated with basic human rights regardless of the emergency they face. In Sections 4.1 and 4.2 I explain how the human right to a basic minimum is of the highest priority for society and how it must be universal in application. Accordingly, all humans can claim the goods associated with the human right to welfare in a natural disaster scenario, or so I will argue throughout this thesis.

Following from this, Cabrera makes the argument that we should direct our energies at individuals as the morally significant entity. This is a move away from statist accounts of moral obligation. Instead, any institutions grounded in the statist system should be used for the promotion of human rights. It is the human aspect of human rights themselves, not the pain and suffering or interdependence between states, that create the duties to humans (Cabrera, 2010, p. 33). This further supports the notion that states are neither responsible for humans because of some duty to help those less fortunate nor as part of a mutual assistance compact. Indeed, sovereignty must take a back seat to a state's duties to support the needs of individuals purely because humans are inherently valuable (Cabrera, 2010).

In arguing against the prioritization of compatriots over those humans living in other countries Cabrera argues that the possibility of oppression and an inability for governments to meet the needs of their people should encourage us to look more closely at rights-based approaches to global justice (Cabrera, 2004). In fact, if the

building of cosmopolitan institutions will ensure certain necessary (subsistence) goods are available to individuals, than we are morally required to develop those institutions (Cabrera, 2010).

Cabrera takes the cosmopolitan ideal a bit too far, though. He sets out a normative position in which the norm of human rights must be established within an ideal version of global institutional structure. Whilst admirable, it is arguably impractical in the short term and questionably undesirable in the long term (Das, 2006). Full development of cosmopolitan global institutions is surely unnecessary in order to establish policies in line with human rights norms. Considering the world exists in non-ideal conditions of justice (and is unlikely to reach ideal conditions any time soon) there are ways of functioning within our current unjust systems whilst pursuing cosmopolitan goals (Freiman, 2013). In the meantime, we can, ensure that people are not negatively affected by redistribution of scarce resources, just as Caney argues in relation to human rights in climate ethics (2010). This is one of the reasons that I think a cosmopolitan approach to disaster ethics is superior to the strictly consequentialist one offered by Zack.

1.3.4 The Overlap

So, how does one apply a cosmopolitan approach (like the one applied to humanitarian intervention) to human rights in natural disaster scenarios? Cosmopolitanism helps us to understand that there are just some phenomena – natural or man-made – over which a state cannot govern. In arguing for cosmopolitan democracy, Archibugi suggests that we must not just set out the ideal cosmopolitan solution to global problems. The full realization of human rights

requires that we develop new and innovative ways of approaching global affairs which account for the needs of all individuals globally (Archibugi, 2003, p. 8). Hence we must innovatively apply cosmopolitan ideals on the global stage separate from the statist system of states (Archibugi, 2003, p. 7).

Importantly, he notes that whilst the human rights of certain individuals may be violated in various circumstances, humanitarian interventions should only occur when “blatant, collective violations of human rights are perpetrated” (Archibugi, 2004, p. 6). Explaining the grounds for cosmopolitan humanitarian interventions in this way actually sets Archibugi in line with Walzer in that some human rights may be violated should the emergency require it. As explained above, I do not believe we should ever establish that violating human rights may be justified. Instead, with proper preparation in the face of large scale natural disasters we may be able to change the institutions and systems through which disaster assistance is delivered. This requires proper preparedness to include a provision for the use of force when a national government is unable or unwilling to provide for the needs of its people in the aftermath of a natural disaster or so I will argue in this thesis.

Thus, in what follows I work at the overlap of disaster response, humanitarian intervention, and cosmopolitanism. The ethics of disaster response are underpinned by cosmopolitan ethics. Disaster response requires the development of just policies developed by just institutions as well as the prioritization of human individuals within those policies. However the ethics of disaster response as I apply in this thesis relies on norms and structures already developed in the humanitarian intervention literature. Indeed, any of the problems faced by humanitarian intervention academics will be problems I face as well. My unique contribution to the disaster studies

literature is the adoption of intervention as a sub-field; to the humanitarian intervention literature I include another emergency type we must consider alongside those traditionally included and for which we must prepare and develop robust policy. In doing this I reject the exclusion of natural disasters from the disaster studies, cosmopolitan and humanitarian intervention literatures and bring natural disasters into the fold of ethical theorizing and policy development.

1.3.5 Comparative Analysis

Within this thesis I test my argument that there are some occasions in which even the most prepared states will be unable or unwilling to provide for the needs of their people. In those situations, the international community must be prepared to act, with military force if necessary, to respond to the welfare requirements of those affected by natural disaster. Once again, this thesis is written as a contribution to the literature at the overlap of disaster response, humanitarian intervention and cosmopolitanism. As states are the main responders in both humanitarian interventions and disaster response, states acted as my observational unit (Ragin, 1982). Investigations at the state level will provide me with perspective on how response affects (and should affect) individuals.

To test this hypothesis I used a comparative methodological approach as it helped me account for different political and sociological differences across a multi-state sample.¹³ This helped me (empirically) determine commonalities inherent in natural disaster response at the state level and to show there are in fact generalizations to

¹³ A comparative methodological approach is a type of social science qualitative research. It was originally developed in response to the growing need and desire to analyse trends, norms and policies across countries with different political, economic and social structures (Oyen, 1990; Kennett, 2001). In essence, it developed as a way of analysing transnational issues (Kennett, 2001).

be made across states as to what can go wrong in natural disaster response. (Hopkin, 2010; Oyen, 1990; Ragin, 2014).¹⁴

Case studies are set out in Chapter 2 because case studies allow for a more focused observation of common problems associated with disaster response at the state level (Hopkin, 2010). I also use case studies instead of a snapshot of countries with particular qualities (or instead of using all countries) in my analysis because I only require a suggestion of an answer to my hypothesis (Hopkin, 2010, p. 303). The existence of human rights abuses is enough information to adequately respond to my research question.

In Chapter 3 I provide a summary of my analysis of the lessons learned documents used in creating the case studies. Once again, using a comparative approach allowed me to demonstrate that issues of leadership, role for the military and integration of civil society are situations which exist across states (Hopkin, 2010). I was then able to draw out and critically analyse the lessons as they relate to my thesis. This is relevant to my argument based on the human right to welfare because if some people's rights are violated than we are morally required to make sure that rights do not continue to be violated.

1.4 Structure

My main conclusion in this thesis will be that military intervention for the purpose of natural disaster response is ethically required in some situations in which a national

¹⁴ Ragin explains this as the causal-analytic component of the case-oriented comparative method (2014, p. 35).

government is unable or unwilling to provide assistance to those affected. To that end, the international community is morally obligated to create policy which guides national governments as to when and how a natural disaster military intervention should be carried out, or so I will argue. My argument for these conclusions will proceed with the following structure.

In **Chapter 2** I will provide real and recent examples of natural disaster scenarios. These case studies differ in scale and human impact. Because of this, they represent a spectrum of possible natural disasters which should be taken into account in a natural disaster military intervention policy. I will focus on the following disasters: the Haitian earthquake of 2010, Pakistan earthquake of 2005, the Horn of Africa drought in 2010-2012, Hurricane Katrina which hit the Gulf Coast of the United States in 2005, and the impact of Cyclone Nargis in Burma in 2008.

With the help of these natural disasters, for **Chapter 3** I have reviewed lessons learned documents to better understand the general lessons we can learn from these disasters so that assistance to those affected can be improved. The first lesson which emerges is the need for strong leadership in a disaster situation. Without strong leadership the event quickly spirals into an even worse natural disaster requiring a more robust response. The second lesson is that a military response can have both positive and negative effects on recovery from a natural disaster. It is therefore important to be weary of a military having a role in natural disaster response. At the same time, a military can have positive effects and should not be discounted from participating in a natural disaster response. Finally, the third lesson I will discuss relates to the role of civil society after natural disasters. Civil

society organizations are a part of an effective natural disaster response, which is why they must be recognised in the disaster planning.

In **Chapter 4** I explain the human right to welfare. I begin with an overview of human rights in general. I then proceed to a discussion of the human right to welfare and how it guarantees that all humans have a claim to a basic level of primary goods. Whilst there are three possible ways to ground this right – in the badness of pain and suffering, in our interaction with others or in the recognition of our joint humanity – I make the case that the humanity-based grounding is the most appropriate. Accordingly, the human right to welfare requires that the international community fulfils its duties associated with the human right to welfare. In this thesis I argue that the international community has an obligation to provide for the welfare of humans no matter their geographical location or, pertinent to this thesis, what emergency they face. This chapter thus offers the main justification for the development of policy for and the preparation to act on behalf of those humans affected by a natural disaster when a national government is unable or unwilling to provide for its people. My suggested policy will be discussed in Chapters 6 & 7 and will be based on the arguments that humans have a right to welfare and it is the international community's responsibility to support that in the aftermath of a natural disaster.

Against the background of the human right to welfare, in **Chapter 5** I will explain current international laws and regulations pertaining to international military interventions and how they do not account for the impact of natural hazards. Two major norms associated with international intervention are the Responsibility to Protect and Just War Theory. Each will be discussed in turn to set the scene for future possible approaches to intervene for natural disasters in Chapter 7. Likewise,

there must be consideration of what it means to carry out a just intervention. In this chapter I reintroduce natural disasters as a trigger for military intervention. I suggest that many of the same issues and requirements of justice are required if a military intervention would take place in national disaster response as if there were human rights abuses or genocide.

In **Chapter 6** I will finally start to formulate my main argument. I will begin by setting out the current laws and standards as they relate to natural disaster intervention. I will then explain the problems associated with maintaining the status quo of intervention. Following from this I set out my justification for why we should intervene in the aftermath of a natural disaster. I will argue that there are some cases in which such interventions are appropriate and indeed even required. The main consequence of this is that the international policies described in Chapter 5 are inadequate. Accordingly, I will argue that the human right to welfare can require intervention in certain cases.

In **Chapter 7**, I outline the basic principles for future natural disaster military intervention policies. I will first explain preparedness measures which such policies will require. I will then begin to develop the basic principles of the natural disaster intervention policies on the basis of Just War Theory. Like any military intervention policy, an ethical natural disaster intervention policy will require that military interventions in natural disaster scenarios will have a just cause and they must be proportional, last resort responses, based on the right authority. In this chapter, I will consider how these conditions for just war apply in the case of natural disaster interventions. Due consideration must also be made for the long term consequences

of such an intervention. Finally, in the end of this chapter, I will address the main objections to my policy proposal.

Chapter 8 addresses the weightiest objection to my policy proposal: sovereign authority over a territory. In arguing against sovereignty as a barrier to natural disaster intervention I begin with what sovereignty is and why it is valued in international society, namely that it provides for self-determination, international recognition as well as political rights, security and cooperation. I then set out the main sovereignty-based objections to my thesis before explaining that that despite the value of sovereignty, intervention is still appropriate in some situations. Indeed, I will argue that there are cases in which sovereignty is not a moral barrier to the provision of assistance through military force. Rather, interventions may support both the re-establishment of sovereign governments and uphold the sovereign rights of the individuals within the affected country.

In sum, I will argue that those affected by a natural disaster are no less worthy of assistance from the international community than are those who are affected by gross human rights abuses or genocide. The new international policy outlined in this thesis will, at a minimum, establish the groundwork for future discussion by the international community. Most importantly, though, the development of a natural disaster military intervention policy will ensure that we are prepared to carry out our duties associated with the human right to welfare. Indeed, by creating a policy for interventions in natural disaster scenarios, we express equal moral concern for all human beings and act on our duty to help everyone in the aftermath of a natural disaster.

CHAPTER 2: DISASTER STORIES

In this thesis I am mainly concerned with avoidable human suffering after the occurrence of natural hazards. This thesis is meant to provide an international perspective and international response to natural disasters when national governments are unable or unwilling to discharge their duties. I argue that preparing for natural disasters must involve the development of a safety net for the humans affected in the event that a national government is in fact unable or unwilling to respond. In making this argument, I must first make the case that a safety net does not exist.

In this chapter, I will begin with an explanation of the type of events in question. The definition of natural disasters I gave in Chapter 1 is as follows: a social disruption or impact triggered by a phenomenon of the physical world. So, a natural disaster is a (possibly predictable) sudden-onset, usually weather-related, event that affects a population.

In this chapter, I will discuss five natural disaster case studies, the governments they affected, the surrounding events and the consequences of these disasters. This will provide context for comparative analysis of the lessons learned extracted from international lessons learned documents (made in Chapter 3) and the argument for intervention as a safety net made in later chapters. I use lessons learned documents from international governmental agencies, international NGOs and national governments (where available). A global database of lessons learned documents exists for other international responders to use as they develop their own plans

(OCHA, 2017). National lessons learned documents are harder to come by as most are not made public; other national documents are not available in English.

Where possible I have examined both national and international documents for each disaster. This was done to remove bias or prejudice as it relates to numbers affected, perception of those in receipt of aid and reactions of those providing assistance. For the most part there is broad consensus as to what happened in natural disaster responses and what the implications were for local populations. Where there was any disagreement I accounted for both positions. For example, thorough analysis of lessons learned documents for the Pakistan earthquake enabled me to highlight the acclaim given to the Pakistani military for their response operations despite international hesitation of working with the military.

Additionally, I have set out this chapter as it is so as to show that certain mistakes are universal. My goal is not to single out any country or response but instead to use disasters in different countries, regions and socio-economic backgrounds to make a more general point. Also, these disasters were specifically chosen because they represent strictly natural disasters as I have defined it.

In this chapter I will set the scene for arguments in favour of military intervention made in later chapters. I will proceed in the following way. In Section 2.1, I will explain the various phases of disaster response and recovery in general terms. I will then go on to explain the response phases for each of the five natural disaster case studies to be used throughout the thesis (Sections 2.2-2.6). As explained in the introduction, these are fluid phases and not all disasters require the same response phases. At the beginning of each country case study I have explained why I have

included that disaster specifically. Doing this also allows me to demonstrate that the inability or unwillingness to accept international assistance is not limited to a specific region or socio-economic status. In 2.2, I will discuss what happened in the response, the post-response and reconstruction phases of the 2010 Haitian earthquake. In 2.3 I will explain what happened in both the response and post-response phases of the 2012 Pakistan earthquake. The ongoing drought in the Horn of Africa will be discussed in 2.4. Once again I will divide the discussion of response into response, post-response and reconstruction phases. In 2.5, I will discuss the response and reconstruction phases of Hurricane Katrina in the United States in 2005. Finally, in 2.6 I analyse the response to cyclone Nargis in Myanmar and the possibility of humanitarian intervention

2.1 The Phases of Natural Disaster Response

For reasons of role allocation, funding, measurement and otherwise practical reasons, the phases of a disaster are often broken down into preparedness, response, recovery, and mitigation. These usually follow in succession but a disaster response may not pass through one or more of these phases. Recovery from a disaster is not, as Neal explains “a simple, linear, or cyclical process” (Neal, 1997, p. 244). It is a chaotic operation which must adapt to often conflicting needs and demands. Accordingly, it is not realistic to split disaster response into ‘phases’ for they are not “discrete units” of measurement (Neal, 1997, p. 254). Likewise there is

no general consensus as to when one phase has come to an end and another has started.¹⁵

I will discuss these response phases thoroughly in what follows. Before that, though, it is important to note the ongoing nature of resilience programs. We cannot prevent all natural hazards from occurring; hence we cannot outright prevent the disaster that results. We can mitigate its impact, however, by building global resilience to natural hazards and the resultant disasters (IFRC, 2016).¹⁶ Indeed, the UNISDR calls for an 'ethic of prevention' in our dealings with natural hazards such that we can reduce overall damage caused by a trigger event (such as an earthquake, hurricane, tornado, etc.) (UNISDR, 2017). Preparing and responding to a natural disaster are underpinned by an ethos of resilience, the aim of which is to reduce the impact of disasters (UNISDR, 2015). It is broadly accepted that we reduce the impact of disasters by building communities, addressing the needs of vulnerable populations, supporting civil-military relationship building, building sustainability measures, and accounting for emerging threats, i.e. cyber vulnerability (IFRC, 2016; Shea, 2016; European Commission, 2012). By improving societal conditions we minimize a community's vulnerability (and hence risk). This, by extension, reduces the possible impact that a disaster will have on a specific community.

¹⁵ In fact, agreement about what constitutes a disaster cycle in one culture may be something completely different in another. On an even smaller scale, individual perception about what is a disaster matters (Neal, 1997, p. 256). If a tree falls through my front window breaking a treasured family heirloom, I may view this as a disaster. However, the insurance company, who valued the item, may see the situation quite differently.

¹⁶ As per the Sendai Framework Agreement, states are required to develop and implement Disaster Risk Reduction initiatives (UNISDR, 2015, p. 13). This requires a 'multi-hazard approach'. Hence any suggestions I make about responding to 'natural' hazards should be seen as a component part of a larger, all-hazards, approach to disaster risk. All preparedness measures thus flow from the intention of reducing risk wherever possible. This will, ultimately, reduce the need for post-disaster response and recovery operations and hence the impact that a disaster will have on an affected population.

Resilience is therefore an ongoing initiative intended to improve the lives of vulnerable populations (to help them 'bounce-back') and make the world better able to respond to any possible future emergency (IFRC, 2004; IFRC, 2016). Whilst contentious for its possible diversion of financial support which could otherwise be used in responding to disasters, resiliency is a necessary partner obligation of responsible government agencies (IFRC, 2016, p. 8).

I move now to discussing the specific phases of response particular to natural hazards. These include preparedness, response, post-response and reconstruction. These phases will be used my explanation of the case studies that follow.

First on preparedness, we prepare for disasters because it is important to prevent suffering when we can. Hence preparedness plans often establish what a basic level of welfare looks like and how that can be maintained in the event of a natural disaster. Preparedness measures also set out how this minimal level of welfare can be achieved when normal life is disrupted by a natural disaster. Hence appropriate preparedness measures ensure the continued health, well-being and livelihood of those who are affected by a natural disaster.

Additionally, preparedness measures provide an opportunity to save lives and money and may put off the need for future interventions (Fixdal & Smith, 1998, p. 302). Accordingly, maximizing preparedness will help to minimize the amount of response assistance needed. Proper preparation is indeed vital to appropriate response. Under many current regulations, prevention and relief (which often includes response and recovery) are actually the only way to ensure that all support that can be given to affected people is given. For example, the Hyogo Framework for

Action, a platform for international cooperation on disaster risk reduction, has listed preparedness as one of the top five priorities for international disaster response planning (International Strategy for Disaster Reduction, 2008). Indeed, any response should be preceded by an extensive preparedness and prevention system in line with the operational priorities created by a natural disaster.

Furthermore, preparedness helps to ensure the welfare of those who are affected by a natural disaster. For example, the US preparedness goal stresses the importance of 'whole community' preparedness (DHS, 2015). A 'whole community' includes all individuals and groups in addition to government. 'Whole community' preparedness is to be a 'shared responsibility' (DHS, 2015). With proper planning we can aim at a policy which Zack refers to as 'Save the Greatest Number with the Best Preparation Possible' (2011). Through this approach to preparedness we aim to save more people than would have been possible had a plan of action not been in place. Robust preparedness that plans for all possibilities and options for response ahead of an actual disaster minimizes the chance of decisions being made without proper consideration. This will help to reduce the amount of time wasted and avoid overzealous use force in support of those plans.¹⁷

¹⁷ One need only look at failed response efforts to see how important preparedness is. Take, for example, Hurricane Katrina. Many residents were told to evacuate when the hurricane threatened their neighbourhoods. Appropriate preparedness – including consultation with residents and development of evacuation procedures – would have revealed the fact that many New Orleans residents did not have a means of transportation out of the city. Many who wanted to evacuate had nowhere to go. Still others, who understood the necessity of evacuating and tried to do so, were told that pets could not join them in evacuation shelters. Those who relied upon their pets for companionship were disinclined to leave them behind. Because town planners did not prepare for these possibilities, evacuation was difficult and as a consequence many people died in their homes. Those that could be rescued added to the list of people marooned for long periods of time as rescuers attempted to respond to the heightened demand for their services.

So, the best way to provide for human welfare is to prepare ahead of a natural disaster. Hence there is an ongoing need to be aware of what preparedness measures are in place prior to a natural disaster. It is an ongoing activity, intimately connected with the daily activities of governments and individuals.

I move now to discussion of the other responses phases utilized in this thesis. In an attempt to clarify response operations I have split my analysis further than the main four (preparedness, response, recovery, mitigation) phases of a disaster. For example, I call the period immediately following the emergency event, the period during which the life-saving operations take place, the 'response' phase. By post-response phase, I mean the period and associated activities immediately after the search and rescue operations and other life-saving activities have concluded. It should be noted that in disaster response there is not a static time period delineating the response and recovery phases (Neal, 1997). The last stage I discuss in this chapter ordinarily follows the post-response phase. I use the terms 'reconstruction phase' or 'recovery phase' for this stage depending on the type of operations carried out. I do not discuss 'mitigation' phase as it occurs only after all life-saving and life-sustaining assistance has been carried out and thus is superfluous to my argument.¹⁸

There are also many overlaps and oscillations between the phases. Response and recovery elements are often mixed and depend on the disaster's specific dynamics as well as the social situation affected (Neal, 1997, p. 249). Sometimes, it is even possible for individuals to experience a certain disaster phase at the same time that

¹⁸ Mitigation measures will support improved operations for the next natural disaster. While vital to sustainable disaster planning, mitigation efforts are made *after* the response has taken place and thus are not specifically relevant to the argument made in this thesis.

their neighbour is experiencing a different phase (Neal, 1997, p. 254). This all supports the premise that disaster phases are used for practical purposes and should not be understood temporally (Neal, 1997, p. 259). It should also be noted that I am using the distinction between different disaster response phases as an argumentation tool and therefore recognize that this may be an oversimplification of the problems occurring in the aftermath of a natural disaster.

2.2 Haiti

The first case study discussed in this thesis is the earthquake that struck Haiti's capital city, Port-au-Prince, in January 2010. Haiti was chosen as a case study for comparative analysis because it is a developing country which receives substantial external financial support. Natural disasters affect developing countries with the same frequency and strength as countries at higher levels of development. The difference between developing and developed countries is, however, that developing countries are not as able to respond robustly to the sudden onset of events. Accordingly, the lessons learned in this case study will be representative of the problems identified in natural disaster response operations in countries with similar socio-economic situations and hence should not be seen as a biased choice for inclusion in this thesis. (These lessons will be discussed in Chapter 3.)

Issues raised by the literature on humanitarian intervention, disaster response and cosmopolitanism all come to the fore in this case study. The international community was already present in the country working on large scale development initiatives when the earthquake hit. Disaster response leadership was lacking due to the

devastation and deaths of government officials. However, it was the individuals affected for whom the international community attempted to provide support.

I will begin in Section 2.2.1 by providing details of the disaster and its impact. I will also explain the role of the national, international and civil society bodies in the response. In 2.2.2 I will discuss the post-response phase of the Haitian earthquake operations and in 2.2.3 I will outline the formal reconstruction activities that are already underway. This section will also touch on the long term impact of the earthquake and the response operations.

2.2.1 Response phase

For decades before the disaster, Haiti was in a state of turmoil with rampant political corruption, poverty and social depravation (The American, 2010). In response, the UN Security Council set up the United Nations Stabilization Mission in Haiti (MINUSTAH) to aid civilians and ensure a stable governance presence (Feldman, 2011). Hence there was an international presence in Haiti prior to 2010.

On 12 January 2010, a magnitude 7.0 earthquake hit close to the Haitian capital of Port-au-Prince (Sciba, 2011). The disaster affected 3.5 million people, killing over 200,000 and displacing a further 300,000 (ReliefWeb, 2010). Structural damage was devastating and included the demolition of 60% of all government buildings. From 2010 to 2012 over 1 million people were considered to be internally displaced – some 350,000 were still displaced as of November 2012 (United Nations, 2013, p. 4). The disaster was thought to have cost Haiti over US\$7.8 billion (de Goyet, et al., 2010, p. 4).

There were three prominent groups of response actors: the international community, military forces, and civil society. I will discuss the role of each in turn. First, the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) led the international humanitarian response to the disaster. Its role, as outlined in the UN General Assembly Resolution 46/182 consisted of “strengthening the coordination of humanitarian emergency assistance to the United Nations” (UNOCHA, 2012). All of OCHA’s efforts to save lives and restore normality to the affected individuals in Haiti were done “while working with the government” of Haiti and through “government efforts” (UNOCHA, 2012). Hence OCHA’s role was as a support to the national government. This is despite being relied upon for assistance after disasters.

However, when national and local governments in place are adversely affected or even almost completely destroyed by a disaster, OCHA’s role is complicated. As secondary providers of assistance OCHA had to liaise with the Haitian officials to provide assistance. In this specific scenario, though, national leaders were incapacitated. According to the US Agency for International Development (USAID), the earthquake:

...had an immediate impact on governance and rule of law, killing an estimated 18 percent of Haiti’s civil service and destroying key infrastructure, including the National Palace, the Parliament, 28 of 29 government ministry buildings, the headquarters of the Haitian National Police, many courts, and several correctional facilities (USAID, 2013).

Thus, in Haiti, the disaster disabled the national leadership capacity. The international community’s response operations were hindered because there was no functioning national government. Accordingly, the international community did not have a body through which they could deliver assistance and from which they would

receive disaster specific information. And so, the international community did step in to assist Haiti with the earthquake response but was hindered in its ability to coordinate certain elements of the response.

For example, the international community could not provide appropriate shelter arrangements because property rights were unclear and many of the documents that did exist were destroyed by the earthquake (USAID, 2013). Creating proper laws and rules for society is the role of the Haitian government. Haiti's failure to create adequate systems before the disaster made it difficult for the international community to provide assistance. All the international community could do was to 'fill-in' where the Haitian government was failing.

Even though the Haitian national government still existed and was still the recognized sovereign authority of the country, it was unable to function fully, and thus lead the earthquake response. Furthermore, the international community's presence on the island did little to mitigate problems associated with the absence of national leaders. Indeed, the international community still looked to the national government for direction and coordination as well as permissions and authority.

The second group of response actors involved in the response was the military. UN Peacekeepers were tasked with carrying out essential disaster response operations including search and rescue, emergency medicine provision and infrastructure restoration (MINUSTAH, 2011). Later UN troops were assigned the responsibility of providing security to internal displacement camps as there were not enough trained police in the country. However, the activities carried out by UN troops call into question the military's intentions in Haiti and triggered concerns about mission creep,

non-adherence to the principals of international humanitarian law, and unsustainability.¹⁹

As noted earlier, MINUSTAH military forces were already in Haiti when the earthquake struck, followed soon thereafter by American and Canadian forces (Holmes, 2010). Transport and logistical assistance was forthcoming and well integrated into the humanitarian response. For example, the US reopened Haiti's main airport and managed air traffic control which helped assistance and supplies reach the island (Daniel, 2010). Also, the European Union, in full adherence with the Oslo Guidelines, provided the requested military assistance for shelter (EU, 2010).²⁰ Other military forces with specialist expertise repaired a seaport, set up emergency hospitals and provided airlift for essential supplies (Butterfield, et al., 2010). (It should be noted that because the international community was already in-country, and because national bodies were incapacitated and supporting the national government it cannot be said conclusively that national consent was garnered for the integration of more military response post-earthquake.)

With the UN leading disaster response, the cluster system was utilized to ensure coordination and maximum impact.²¹ Together, OCHA and MINUSTAH provided

¹⁹ Mission creep is the slow transition of any mission from the stated objective to one that requires more supplies, more personnel and more time to complete than originally articulated (and budgeted for). Mission creep is reactionary and represents a failure to strategize and/or an inability to adhere to the stated objective (Luce, 2015). This is a problem because it usually means increased financial costs and additional casualties. For discussion on previous cases of mission creep see (Mearsheimer & Van Evera, 1995). For discussion of the ethics of mission creep and the application of Just War Theory see (Pattison, 2011, pp. 273-275).

²⁰ The *Guidelines on the Use of Foreign Military and Civil Defence Assets in Disaster Relief* (also known as the Oslo Guidelines) were signed in 2006 and set out the rules for military involvement in natural disasters. According to this agreement, militaries are to be used as a 'last resort', ensuring that any and all civilian alternatives have been utilized first and civilian leaders maintain control of the disaster.

²¹ The Cluster System was developed by the United Nations in 1991 in an attempt "to improve capacity, predictability, accountability, leadership and partnership" (OCHA, 2015). There are 11

guidance to military forces active in the disaster, and helped define the mission. This guidance also helped assuage any fears that the military operations were stepping over into humanitarian response roles (Butterfield, et al., 2010, p. 14).

The final group involved in the Haitian response operation was the civil society.²² Civil society in general is able to identify local requirements in a way that national and international governmental bodies are not able to do. This point was made by community members who were interviewed after the disaster. They suggested that they were concerned with the accountability of government officials and the management of foreign assistance (Help et al., 2010 cited in Rencoret, et al., 2010, p. 19). This is indeed one of civil society's roles: articulating needs and contributing to the development of policy at all levels of governance. However, the integration of civil society into natural disaster response activities has both harmful and beneficial consequences.

First, an engaged civil society may create harmful consequences in a natural disaster response. Volunteers can be problematic if they do not possess the appropriate credentials and certifications for delivering certain types of aid. Non-credentialed volunteers pose a challenge to the "coherence" of response operations and put the affected population at risk of further disease (Holmes, 2010, p. 2). This destabilized and undermined the creation of trust-based relationships in Haiti.

clusters and each leads a particular aspect of an international emergency response. So for example, UNICEF is the lead agency for Sanitation, Water & Hygiene. In this capacity UNICEF responds to the needs of those affected by an emergency while also coordinating the efforts of those international bodies with expertise in water and sanitation (OCHA, 2015).

²² Civil society is a group of individuals organized around a common activity or issue which exists outside the political and economic realm. It serves "to balance the power of the state and to protect individuals from the state's power" (Fukuyama, 2001). It is an important component in the stability and flourishing of society and therefore civil society engagement has a role in response operations and must be efficiently integrated into disaster operations. Civil society will be explained in detail in Section 3.3.

Without proper training and efficient integration into the Haitian earthquake response some volunteers would not have been able to provide appropriate advice. Civil society can thus prove harmful to natural disaster response.

Additionally, civil society must be efficiently integrated into disaster operations in order to avoid complications in an already overstretched response operation. Medical personnel in particular must deliver aid that is useful for the local population. Some internal displacement camps in Haiti after the earthquake, for example, did not have working latrines or potable water. As a result of these poor hygiene conditions, medical personnel altered advice to make it useful to a local population without access to basic utilities (Elsharkawi, et al., 2010, p. 12).

The arrival of volunteers and voluntary organizations is valuable to any disaster response as it provides additional workers and expertise unavailable in the personnel of most responding organizations. Support from civil society is also a sustainable response asset which, when properly fostered, may contribute to the development of coherent and trustworthy response relationships.

Most often civil society positively contributed to the post-disaster community building by effectively utilizing locally dependent and innovative techniques. For example, civil society groups contributed to the psychological well-being of those affected by deploying medical personnel. For example, a team of Haitian Red Cross volunteers was trained in what is called psychological first aid. In this scenario, Haitian civil society (in the form of the Haitian Red Cross) showed a particular aptitude for responding to the specific needs of the affected Haitian population and were prepared to deliver a service which the Haitian government was not delivering at the

time. This positive contribution by civil society demonstrates that there is much to gain from listening to an affected population and integrating their needs into disaster response operations.

The point I want to make here is that civil society cannot always be relied upon or may not be called upon to provide additional support to a national response. Without civil society a national government may not be able to cope. Hence a national government's dismissal of the capacity of civil society is possible and may contribute to a government's inability to respond.

In this section, I have explained the specifics of the Haitian earthquake. I have also provided insight into the different responders willing and capable of responding to this disaster in the immediate aftermath of the earthquake. The international community, military responders and civil society all contributed to the natural disaster response operations in Haiti.

2.2.2 Post-response phase

In the post-response phase of this earthquake response, the international community, military forces and civil society all again played key roles in supporting the Haitian people. Since 2010, Haiti suffered the effects of at least two subsequent major weather events (Tropical Storm Isaac and Hurricane Sandy). Continued trauma to the already unstable country has not increased international funding or support. Instead, as the major disaster response efforts were scaled back, the response to the crises after the natural disasters, namely cholera and similar epidemics, were under supported. There were fewer medical facilities, clean water

and waste facilities as the international community withdrew (United Nations, 2013, pp. 14-15).

Despite its role as second line of response to national disasters, the international community continued to fill response gaps, such as providing clean water, because the Haitian national government was still unable to resume its full response functions. Even in the post-response phase, the international community continued to provide for the vital needs of those affected. Despite continued international support, mortality rates and the number of vulnerable people in need of protection were expected to increase into future stages of the relief operations (United Nations, 2013, p. 14). NGOs worried that the availability of future capacity to respond to disasters was hampered by the transitioning of response activities from the nongovernmental agencies back to the national agencies (United Nations, 2013, p. 14). This was predictable given that the national government was unable to provide coordination in the first place.

During this phase, the military continued responding as well. Six months on from the disaster the United States Southern Command (Southcom) withdrew its official military response to the Haitian earthquake. It said, however, that it would continue 'humanitarian and construction projects' in Haiti to bolster future preparedness for earthquakes and hurricanes (Daniel, 2010). US National Guard Members also continued to carry out construction projects on the island.

Finally, civil society also played a part in the post-response phase of this disaster. The Haitian earthquake of 2010 crippled an already weak political, economic and civil society. While the international and military components of the response carried

on as best they could, civil society struggled. Indeed, civil society found it difficult to create lasting mechanisms for those affected to receive assistance without a strong political and economic system driving the other response components.²³ In Haiti, civil society assistance was inefficient because civil society lacked the direction usually provided by a national government.

2.2.3 Reconstruction

Civil society was central to the Haitian recovery operations as it worked to rebuild the earthquake ravaged areas. The international community and the military both scaled back their operations during this phase. As the response lead, civil society faced many obstacles in its attempts to support those affected.

For example, the Ministry of Health, a badly functioning Ministry to begin with, struggled to work at capacity during the reconstruction. They had been affected by the same structural damage and supply shortages that were affecting the main population. The Ministry was thereby unable to assist people and to regain control over the work from civil society it should have been doing (de Goyet, et al., 2010).²⁴

²³ The Pan American Health Organization (PAHO) supports this claim: “Government, however weak, has to play a central role in humanitarian leadership and coordination of post-natural disaster. We as humanitarian leaders have to accept and facilitate this” (de Goyet, et al., 2010, pp. 139-140). PAHO and other nongovernmental organizations must support national and international governance efforts in order to increase the efficiency with which assistance is provided to the affected individuals.

²⁴ As this and aspects of the other case studies of this chapter make clear, human factors are nearly always important to natural disasters. As I explained in Section 1.1, there is a human element involved in the formation of natural disasters. Likewise, vulnerability, poverty, and social injustice all factor into the development of a ‘disaster’ in the aftermath of a natural hazard (Blaikie, et al., 2003). This is morally problematic as the international community often contributes to human suffering. This issue should be addressed in the humanitarian intervention and international development literatures as well as disaster studies. Once again, though, in this thesis I am less focused on contributing systemic factors which create/exacerbate the conditions of a natural disaster. I am more interested in the type of disaster, namely natural disasters, as they are specifically excluded from international policy on

At the same time, because the government saw civil society as a hindrance to post-earthquake reconstruction it purposely side-lined civil society (de Goyet, et al., 2010, pp. 43, 139). The side-lining of civil society was counter-productive as most resources, particularly health-related resources, were under the control of NGOs (de Goyet, et al., 2010, p. 128). NGOs therefore made decisions on how to use supplies by themselves. Hence decision-makers with relief resources were separated from those who made decisions about how best to use the aid. The affected public suffered as a result.

Overall, national leaders struggled to lead in the aftermath of the disaster. Local concerns were not heard and the civil society was pushed out of the decision-making process (Holmes, 2010). Local voices thereby did not have an opportunity to contribute to the creation of the society that they themselves would be living in after the disaster. For example, Haitians were not able to contribute to the response discussions in their local language (Holmes, 2010; Rencoret, et al., 2010). All of these issues undermined the national governments ability to re-establish their hegemony post-disaster. And so, the trajectory of the support relief operations took a drastic turn because of the government's inability to coordinate disaster response efforts. As a consequence, the Haitian response operations were inferior to what they could have been.

In sum, Haiti's earthquake wreaked havoc on the already unstable country. During all phases of the support activities – response, post-response and recovery – external support from international, military and civil society groups was necessary. The

who and when to intervene. Hence, the lessons learned extracted from these natural disasters are similar in that they are a response to, as opposed to an underlying factor in creating, a natural disaster.

absence of coherent natural disaster assistance regulations and robust national leaders in the face of a disaster like this led to many problems that could have been avoided. In Chapter 3, I will address the specific lessons to be learned from this case which have to do with leadership, the role of the military and the role of civil society.

2.3 Pakistan

Pakistan's status as a developing country in Asia and its oscillation between democratic and military rule in recent years makes it an interesting philosophical case study. I am able to show that geographic location and government system does not change the type of response required or that human welfare is put at stake. I am also able to highlight how similar national governments may respond to a natural disaster when there is a strong military component to national leadership.

After a military coup in 1999, General Pervez Musharraf came to power as president (Hashim, 2013). In this section, I will discuss the earthquake that occurred in Kashmir six years after Musharraf became the president. This time, I will only discuss the response and post-response phases. In Section 2.3.1 I will explain what happened during the response phase of the 2005 Pakistan earthquake. I will also describe the activities of the key response parties. In Section 2.3.2, I will provide an overview of the post-response phase activities. I will not count civil society as a key response party. This is because, even if neighbourhoods and other groups came together to support each other, there was no large scale civil society movement to speak of. Instead, the Pakistani national military took control of the disaster during all stages of the response.

2.3.1 Response phase

On 8 October 2005, a 7.6 magnitude earthquake hit near the capital of the Pakistani-administered portion of Kashmir, Muzaffarabad. By November the death toll was estimated to range from 73,000 to 87,000 and rising (KRDF, 2012; Earthquake Engineering Research Institute, 2006). 3.5 million people were left homeless and power and utilities were out for varying amounts of time. Government leadership was lacking because they were 'unavailable', attending to loved ones, the dead, or just not capable of taking up their posts (Command and Control Research Program, 2007).

Landslides and rock falls were also a common occurrence. In some areas as much as 50% of the buildings were damaged or destroyed, which only compounded the problem of returning people to their homes and livelihoods. According to some estimates, more than 6,000 schools were destroyed by the earthquake, which greatly inhibited society's ability to re-establish normality in the post-response phase (BBC News, 2006). With winter on its way there was an immediate need for excess heating and blankets for those who were either displaced or without working utilities (USAID, 2006). Seven years later, people were still dying – most from treatable diseases that went untreated because of lack of medical facilities and immunization. Water-borne diseases in the areas with poor sanitation were still also an issue (KRDF, 2012).

In this disaster, without a functioning government, individuals and groups had no way of asking for or receiving initial aid and assistance. All policy and preparedness measures created at the national level became irrelevant. At this point, the Pakistani

military stepped in to fill the power vacuum. In the days immediately following the disaster, multinational assistance arrived and included both civilian and military personnel and materials.

Acting under a military regime, the Pakistan army deployed 50,000 troops in the immediate aftermath of the disaster to fill the gap created by the absence of civil leadership (IRIN, 2006). The military of Pakistan is notably well-liked by the people of Pakistan and internationally recognized as being a “professional and well-ordered force” (IRIN, 2006). The Pakistani military was praised for its leadership and ability to work across formerly tense borders (IRIN, 2006).

Despite military leadership in the response phase of the disaster, evidence suggests that there was an absence of national leadership to organise and give permissions for emergency aid. Even with the military in charge, “...the security assets that remained were negligible to support relief workers. The police communication lines were severely affected” (Command and Control Research Program, 2007). Additionally, while the military was effective, some question whether civilian structures were purposely avoided (International Crisis Group, 2006). The international community originally did not want to work with a military organization to provide humanitarian assistance (IRIN, 2006). This changed as it realized that the military was the only responders to work with during the post-earthquake operations.

The NGO community did not report any widespread military failures. Instead, there was actually extensive acclaim for operations carried out by the Pakistani forces. Indeed, the head of OCHA’s operation in Pakistan, Abu Diek, went as far as to state: “Cooperation between [the] UN and [the] military has been exceptionally

unprecedented. The UN has to rewrite its books about civil/military cooperation” (IRIN, 2006). This acclaim offers cause to reconsider civilian-military relations during natural disaster scenarios.

2.3.2 Post-response phase

Normally, immediate life-saving response activities occur during the first 48 hours of an incident. The Pakistani Government established a Federal Relief Commission under the control of the Prime Minister on 10 October in what I would call the post-response phase. This agency was “officially tasked with streamlining relief efforts with relevant ministries, provincial governments and NGOs...” but in practice “...the agency institutionalised military’s control over relief coordination, a role it is not well prepared for” (International Crisis Group, 2006, p. 3). The military was also not prepared for its new role of co-ordinating the disaster relief efforts. Indeed, it took almost three weeks to establish appropriate support for survivors (International Crisis Group, 2006, p. 3). And so, the post-response operations that should have begun two days after the earthquake only started to provide assistance three weeks after the disaster.

Internal displacement post-earthquake remained high until February 2006. Disease was rife and cultural incongruities caused further problems within the camps for the internally displaced people (IDP). Maternal health was of specific concern (Earthquake Engineering Research Institute, 2006). Unconfirmed reports suggest that rebuilding efforts and government sponsored construction plans were non-existent. International pledges also failed to materialise causing a funding deficit (Iqbal, 2012).

Despite its delayed start, the Pakistani military's work in the aftermath of the 2005 earthquake was widely commended. However, there was concern that given that the military was the default responder in this case, it would continue to play this role also in the future and this will be detrimental to disaster victims in Pakistan. There is, of course, the possibility that the military will learn from its mistakes and be able to respond to natural disasters more quickly in the future. However, a military in charge of a disaster response is contentious (even if it is productive). The military's response to the 2013 earthquake, for example, included public relations work to counter image problems associated with its fight against separatist insurgents (BBC News, 2013).

Civil society organizations also raised concerns about working with a military lead, especially one so tightly linked to a corrupt military regime. The International Crisis Group, a non-profit think-tank, maintained that the military's work was detrimental to the international response community who may be undermined in their future attempts to challenge Pakistan's military-governmental rule (IRIN, 2006). And so, without a strong central government response to the disaster, the military filled the gaps. This was not as supportive to the affected individuals as it should have been and served to alienate the international response agencies. However, the military was effective in providing assistance when the national government was unable to do so.

2.4 Horn of Africa

In this section, I will discuss a collective group of countries known as the Horn of Africa (HoA). I have chosen the drought in the Horn of Africa as a case study

because it represents the type of natural disaster that is common in Africa. It also covers a whole region as opposed to one specific country. Separately and collectively these countries have had a violent and chaotic existence. The drought that occurred in the HoA in 2012-2013 will be discussed as one disaster despite the fact that it spanned a number of sovereign states and national governments including Kenya, Somalia, Ethiopia, Tanzania, Djibouti, as well as Uganda and South Sudan. In this section, I will concentrate on Kenya, Ethiopia, Somalia, Sudan and South Sudan and label them collectively the Horn of Africa.

Political crisis, conflict and natural disaster have contributed to the ongoing instability of the region.²⁵ In examining the Horn of Africa I am able to show what happens when national governments exercise their sovereign authority and do not allow international assistance into the country. This is compared to countries in the same region with relatively similar levels of development. In grouping these countries I am able to conduct a comparative analysis within my larger analysis.

Because the natural disaster in question spanned several countries, the structure of this section will be slightly different. I will begin from a brief overview of the socio-political situation in the relevant countries. In 2.4.1, I will discuss the drought response phase which covered roughly 2012 and 2013. In Section 2.4.2, I will describe the assistance that was then delivered during the post-response phase. In Section 2.4.3, I will discuss the recovery and reconstruction phase of the Horn of Africa drought. It is important to recognize that the drought continued beyond 2013.

²⁵ Once again, there are human/social elements which exacerbate the damage caused (and thus the creation of a disaster) by a natural hazard. See footnote 24 for more.

Because the drought was an ongoing issue, I have not included a reconstruction phase in this analysis.

Let us begin from a brief overview of the five countries in the Horn of Africa before the drought in question. Kenya held much anticipated elections in 2013. Political violence, possibly severe, was again expected in the lead-up to the 2013 elections (International Crisis Group, 2013). Its shambolic 2007 election had led to widespread violence. Many hoped that the 2013 elections would mark a turning point in governmental reforms. One of the reforms hoped for was cooperation with the International Criminal Court (ICC). Mwai Kibaki, the Kenyan president re-elected in 2007, is yet to be sent to the ICC to face allegations associated with contributing to the violence in the aftermath of those elections (Rice, 2010; International Crisis Group, 2013). While the expected violence did not occur, there were continued concerns over election fraud and the exclusion of minority voices (International Crisis Group, 2013).

Sudan split into Sudan and South Sudan after years of bloody conflict and a civil war that ended with a peace agreement in 2005 (BBC News, 2015). South Sudan was formally recognized as an independent country in 2011 (BBC News, 2015). Despite the formal split and African Union offers to moderate dispute resolution, the two countries continue to battle over the border area and the oil present there. This fueled mistrust between the two countries (Global Witness, 2009; BBC News, 2012). In 2013, a civil war within South Sudan itself erupted as a result of a failed presidential coup. The ensuing conflict displaced millions and exacerbated the famine conditions (BBC News, 2015).

Ethiopia, while not involved in conflict, suffered 21 years of oppression from a dictatorial leader, Prime Minister Meles Zenawi. Despite his poor human rights record, Zenawi became an important figure in the global counter-terrorism efforts and as a consequence his country became the greatest recipient of international aid in all of Africa (International Crisis Group, 2012). New leadership in Ethiopia after Zenawi's death in 2012 has not reversed any of the governmental repression of Ethiopians (International Crisis Group, 2012). Instead, the ruling party continues to undermine democratic rule of law. The current Prime Minister Hailemariam was the expected choice to rule but, instead of maintaining dictatorial power, a collective group of party members rose to power (Wolf, 2013). So, while one dictator was removed there was no real change in the structures of authority or the aggressive policies towards the vulnerable population of Ethiopia.

Meanwhile, warlordism and clan conflict have devastated Somalia. The national government is weak and thus 'informal' structures of government constitute most of the country's governance. Because of this, external efforts to create a stable Somalian society have been difficult. Grass roots organizations, businesses and civil society as well as the national government have all attempted to stabilize the country in their own ways. (UK Stabilisation Unit, n.d.). In addition, Somalia is embroiled in the "Global War on Terror" and therefore the country is swayed by western political interests. For years the country operated without a central government authority. Local communities have thus taken it upon themselves to provide core governmental functions, including security (Menkhaus, 2006, p. 74). The unstructured nature of Somalian security leaves space for Islamist groups to take power by force

(Menkhaus, 2006, p. 76). This only creates more problems for external authorities to quell the waves of violence.

2.4.1 Response phase

Residents of the Horn of Africa affected by political instability and conflict were forced to deal with an additional hardship, namely drought. Drought is an ongoing problem in Africa. However, for the purpose of this thesis, I will concentrate on the drought response in 2012-13. Due to lower than average rainfall in 2012, in an already dry part of the world, countries in the Horn of Africa experienced devastating drought and floods on a yearly basis (Reliefweb, 2015). During this time period, crops failed. The modest rainfall did nothing to slow, let alone reverse, the reduction in crop growth during the 2012 growing season (UNOCHA, 2012). Whenever rain did fall, flooding occurred because the land could not absorb the water fast enough. This flooding led to landslides throughout the area.

The national governance structures of each of the affected countries considered (Kenya, Ethiopia, Somalia, Sudan and South Sudan) are so different that the international community's policy, planning and assistance had to be tailored to each of the national systems separately (Slim, 2012, pp. 8-9). Accordingly, the international community could not deliver aid to each country uniformly. Likewise, the way each national government distributed the foreign aid was different.

In this section I will first explain the activities of civil society and then those of the international community. The lack of a cohesive national or regional government plan for delivering assistance to those affected across the region created hardship for

NGOs and others on the ground trying to coordinate aid delivery. Without an overarching policy with which NGOs could coordinate response, aid provision was disjointed. So, this drought took place across several countries with separate and distinct abilities; because of this, civil society was hampered in their ability to deliver consistent assistance to those affected. As expected, then, diverse and inconsistent problems arose across the different countries of the Horn of Africa.

As the drought in the Horn of Africa continued, famine, crop devastation and livelihood destruction wrought havoc on a severely stunted infrastructure and weak internal governance. According to a report by the UN Interagency Standing Committee (IASC) the situation in the Horn of Africa countries differed based on the national governance and internal capabilities:

Humanitarian strategies, planning and resource mobilization were very strong in Ethiopia but weak in Kenya. They initially failed in Somalia. Famine prevention in Ethiopia built on strong Government, donor, UN and NGO partnerships. The Kenyan Government response needed strong international support and had a low base of Disaster Risk Reduction (DRR) and resilience links from which to respond. Somalia had very weak Government leadership, and the Inter-Agency Standing Committee (IASC) cluster system failed to design and deliver a coherent strategy on time (Slim, 2012, p. 6).

As explained in the ISC Report, where strong relationships between governmental and non-governmental organizations existed, there were more robust plans for disaster prevention.

Furthermore, distrust in foreign entities and inadequate national preparedness made life even more difficult for the affected individuals. While foreign support was eventually accepted it was not utilized effectively in each country. The Interagency

Standing Committee Synthesis Report details the problems with timely aid reaching disaster victims (Slim, 2012). In some cases this was due to conflict in the area. In others, such as in Kenya and Somalia, effective humanitarian response was hindered by 'the quality of State governance' (Slim, 2012, p. 15). And so, we can see that a national government's inadequate leadership, coordination and planning created barriers to assistance reaching the victims.

2.4.2 Post-response phase

As stated earlier, the oscillation between drought and rain meant that there was little opportunity for responders to transition neatly into a post-response phase. There were times, however, when responders returned to post-response projects until the next life-saving response activities were needed. In this section, I describe the NGO post-response activities which will provide evidence of the critical role of civil society in the post-response phase of the Horn of Africa drought (this is discussed further in Section 3.3).

The scope of this disaster required a different approach. There were three reasons for this: (1) the nature of the drought cycles required long term engagement policies, (2) NGOs were unable to offer immediate disaster relief because they were expelled from certain countries, and (3) the international community did not respond at the first sign of trouble. These three reasons, which I will describe further in this section, illustrate the role of civil society in the disaster response operations and the problems faced by NGOs and others.

I will start by focusing on civil society's long term engagement projects. The nature of drought cycles in the Horn of Africa quickly makes short term disaster response operations redundant. It was therefore suggested that it would be more appropriate to develop long term engagement plans (before a disaster strikes) which are flexible to changing disaster needs. According to the Red Cross,

[e]xpert studies have suggested an inter-related series of measures are needed to help manage the impact of cyclical crisis such as the Horn of Africa's. Among them: Empower communities to influence national policy and its implementation, to decide on their own development and humanitarian priorities and enable them to monitor the use of funding allocated to them...Community risk management strategies must be developed and implemented (IFRC, 2011, p. 9).

It is clear, then, that the cycle of drought requires that NGOs, governments and those affected respond to droughts through long-term resilience projects. Tackling drought when it occurs will not fix the problem and it will also not empower the affected to improve their situation before the next drought. Furthermore, the Red Cross suggests that “[g]overnments, donors and humanitarian organizations must work together on a long term approach, addressing the chronic underlying issues” (IFRC, 2011, p. 4). The long term approach to a cyclical drought problem, according to the Red Cross, must involve engagement of both government actors and civil society groups such as humanitarian organizations. This kind of an approach would address not just the disaster but also the triggers that cause drought. And so, drought problems in the Horn of Africa should be approached with long term projects, instead of immediate disaster response. They should also engage NGOs and form cooperative arrangements with all parties.

The second reason why civil society responded to the Horn of Africa drought differently than it would to a drought elsewhere was that foreign NGOs were often hampered in their attempts to bring aid to certain countries. In Somalia, the NGOs were unable to provide the required immediate disaster relief because the Somali government forced aid workers to leave the country. Civil society was thereby hampered in its ability to efficiently engage with the disaster response. And so, despite the possible supporting role, the NGOs were forcibly removed from the Somalian drought response.

Despite the previous obstacle, Oxfam and others suggested that a large 'scale-up' of international response operations in partnership with Somali civil society led to drastic declines in the numbers of malnourished. However, the true outcome of this work and the long term impact of civil society operating within the disaster situation are not easy to estimate because the international aid organizations were expelled from the country in 2011 and 2012 (Oxfam, 2012, p. 1). Indeed,

“[p]otential criminalization of aid agencies inhibited aid requests and aid flows in the important run-up to the famine. Al-Shabaab’s bans on the United Nations World Food Programme (WFP), the International Committee of the Red Cross (ICRC) and several non-governmental organizations (NGOs) – with no good alternative humanitarian plan – restricted people’s options at a crucial time. The HCT’s misreading of the crisis led to insufficient urgency, an inappropriate strategy and a late response” (Slim, 2012, p. 5).

The Humanitarian Country Team (HCT) and other international and civil society organizations were removed from the response before their impact was assessed (United Nations, 2013). Indeed, in this specific situation the government was unwilling to engage with foreign support. Additionally, aid was not delivered to organizational standards because of governmental blocks to their efforts. The quality

of the care delivered to the affected individuals would have arguably been better if more civil society assistance had been taken up. And so, the civil society response to the Horn of Africa drought was hampered by the expulsion of the NGOs from certain countries.

Finally, the third cause of civil society's inability to contribute to effective and timely response operations was a reliance on the international community to act. As argued by Oxfam,

[r]esponsibility for this situation lies first and foremost in Somalia, where warring factions are accused of impeding and diverting aid flows, but the international community has also been at fault. Policies focused more on international security concerns than on the needs, interests and wishes of the Somali people have inadvertently fuelled both the conflict and the humanitarian crisis (Oxfam, 2012).

International security concerns, according to Oxfam, contributed to the intensification of the famine.²⁶ Indeed, Oxfam and Save the Children argued that the international community delayed response until the famine had already reached a critical point (Oxfam, 2012). This example provides evidence that 'disasters' are exacerbated by human action or inaction. Further, it is pertinent to this thesis that there is an expectation but an inability for the international community to act (which can be addressed at least in part by international preparedness to respond when required which is currently lacking).

²⁶ The academic literature recognizes the human factors that contribute to the creation of a 'natural disaster' as shown in this example (Blaikie, et al., 2003; O'Keefe, et al., 1976). The policies which would help the international community respond to such emergencies on par with other similar emergencies deliberately removes natural disasters. This is the issue I am interested in in this thesis.

With this lack of national and international leadership, there was also a lack of democratic process necessary to pressure the national leaders to improve disaster response. Individuals were unable to influence the national leaders to improve disaster response and were voiceless in the continued exclusion of civil society in the response to their struggle, despite the evidence that NGO engagement would have contributed to the famine relief. The delayed response of the international community negatively impacted civil society's ability to carry out immediate disaster response and undermined the ability of those affected to contribute to their own flourishing.

2.4.3 Reconstruction and Long Term Plans

The situation for most people in the Horn of Africa remained dire through 2013 and beyond. Drought and seasonal flooding, which often lead to death and disease, continued despite ongoing periods of disaster response and post-response. However, there was some good news about the situation improving and refugee numbers decreasing (UNOCHA, 2012). Food insecurity for the east African population improved "because of improved access to food for poor households, declining food prices, improved labour opportunities, and a reduced impact of conflict" (UNOCHA, 2012-2013).

Additionally, on 6 December 2012, the Kampala Convention entered into force. The Kampala Convention is a legally binding agreement for African Union member states, which requires states to protect the individuals who are already internally displaced. It further requires states to help prevent future internal displacement (Internal Displacement Monitoring Centre, 2013). Most countries of the Horn of

Africa, however, have not signed yet the Convention and thus there is no legal mechanism available to the rest of the African countries to enforce its rules and responsibilities (UNOCHA, 2012).

Reconstruction and long term planning in the case of the Horn of Africa is ineffective. Drought spans multiple countries with varying degrees of response capacity. It is difficult for civil society and international bodies to create long term plans to engage in long term planning given the region's varied environments. Hence, there are several response gaps yet to be filled.

2.5 United States

My fourth study is Hurricane Katrina, which occurred in the United States in 2005. The United States is a highly economically developed country. Furthermore, it is renowned for its logistical and operational capabilities. It is therefore fitting to use the US as a case study because it is representative of other highly developed countries and demonstrates that natural disasters which exceed national capacity to respond occur. Philosophers should empirically assess from this case study that the human welfare needs in the aftermath of a natural disaster are the same no matter the geographic location or level of development.

In 2.5.1, I will give a snapshot of the cultural, political and economic situation in Louisiana before the storm. In 2.5.2, I will explain what happened when the hurricane hit. This will include an explanation of the destruction it caused both to the geography and the people of the area. In 2.5.3, I will discuss the response phase of

the disaster. This will be followed by analysis of the post-response in 2.5.4 and the reconstruction phase in 2.5.5.

2.5.1 Before the Louisiana Storm

Let us begin from socio-economic statistics that will provide a picture of Louisiana before the Hurricane Katrina. In 2003, the state's poverty rate was 18.1% and ranged from 10.5% to 33.9% depending on the county.²⁷ Meanwhile, the average poverty rate in the US stood at 12.5% (RUPRI, 2006, p. 7). Hence, Louisiana had higher than national average poverty rates.

This is compounded by race-related injustice. According to official US statistics, in 2004, roughly 64% of the Louisiana population was white and 33% were African American (RUPRI, 2006, p. 3). This is a much larger African American population than in other US states. However, research shows that African Americans are systematically disenfranchised from participating in the administration of justice (Smith & Sarma, 2012, p. 363). For example, African Americans were unfairly targeted by police for low-level crimes. Statistics show that while drug use was quite widespread, African Americans were targeted for drug-related arrests (Smith & Sarma, B, 2012, p. 366). African Americans were also removed from juries because, it was argued, certain African Americans would be inimical to 'the State' (Smith & Sarma, 2012, p. 362). Further, in 2005, almost five times more African Americans than whites were imprisoned in Louisiana (The Sentencing Project, 2013). This is astronomical considering African Americans only represent about 30% of the

²⁷ The poverty rate is the amount of money minimally required for a family or individual to purchase goods and services required for a minimally decent life. The rate is calculated based on current rates of food, housing, etc. and accounts for inflation (National Poverty Center, 2015a).

population. Thus, we can conclude that poverty and racial discrimination were common in pre-Hurricane Katrina Louisiana.

When it comes to natural disaster preparedness, Louisiana is at least similar to other states in the US. As elsewhere, highly trained local responders are first on the scene for any natural or man-made disasters. Despite some communications interoperability issues for state responders, Louisiana was reasonably prepared to respond to natural disasters (Governor's Office of Homeland Security & Emergency Preparedness, 2015). When a disaster overwhelms the capacity of the local and state level operations, the US Government provides excess response capacity and coordinates all national government agencies under a National Response Framework (US Department of Homeland Security, 2008).²⁸ Depending on the disaster in question, non-governmental organizations work efficiently independently or as a part of a consortium of agencies that respond to the needs of those affected under the structures of the National Response Plan (NVOAD, 2015). So, the US Federal Emergency Management Agency takes on its role of coordinating federal assets and supporting the state's response operations. However, the US operates with a federalist system of government whereby each state within the country is sovereign. This means that the state government (in this case Louisiana) coordinates the response to a natural disaster, even when federal assets are requested.

²⁸ The National Response Framework (NRF) was put into place in 2008 as a reaction to the events of September 11, 2001 and Hurricane Katrina. The NRF was meant to streamline processes and procedures for emergency response, remove duplication of efforts and coordinate the efforts of community members as well as government and non-governmental organization workers (FEMA, 2015). The NRF replaced the National Response Plan in 2008 but remained a guide for all-hazards response operators (Homeland Security, 2008).

The United States' status as a highly capable country, able to respond to any disaster or emergency situation, makes it an ideal case study for this thesis. Lessons are not simply learned when countries are poor or non-western. Indeed, Hurricane Katrina offers evidence that systems and structures for natural disaster response need global attention.

2.5.2 Impact of the Storm

With this background in mind, I now move to discuss the natural disaster itself. Hurricane Katrina swept through the states bordering the Gulf of Mexico between the 29th of August and the 5th of September 2005. Even after being downgraded from a Category 5 hurricane to a Category 3 hurricane, with winds of up to 130mph, Katrina travelled through the Gulf Coast destroying almost everything in its path (Guilford, 2010). The winds and waves laid waste to coastal towns. The storm surge and toppling of levees flooded the rest of the towns and communities not directly affected by the storm (Townsend, 2006, p. Chapter 4; Guilford, 2010).

According to information gathered by the National Center for Biotechnology Information, Hurricane Katrina was the deadliest storm in the Gulf Coast in over 70 years as well as the costliest in American history (Guilford, 2010; Olshansky, 2006; Landy, 2010; Brunkard, et al., 2008). In Louisiana alone, there were 971 Katrina-related deaths, 40% of which were drowning related (Brunkard, et al., 2008). Other reports put the death toll at nearly double that number and link these casualties to the hurricane itself and the subsequent failure of levees, which caused the flooding (Moynihan, 2009, p. 1). A roughly equal number of men and women died in the storm. Likewise, a similar number of African American and Caucasians died

(Brunkard, et al., 2008, p. 2). With many care homes and hospitals in the way of the storm, there were also some patients who died when carers could not or did not see to their needs (Hull & Struck, D, 2005).

2.5.3 Response Phase

There were once again government, civil society and military responses to the natural disaster. First, the government response involved operations at both the state and the national level. At the state level, Louisiana responded to the daily elevation of the risk of landfall in a normal fashion. The Governors of Louisiana and Mississippi declared states of emergency as the tropical depression became a tropical storm and moved closer to the coastal populations (Moynihan, 2009). Voluntary evacuations began on 26 August and the national government declared a state of emergency that same day (Moynihan, 2009). This released national stockpiles of supplies and authorized national responders to act in support of those in the hurricane's path.

However, evacuations and assistance came too late. Within 12 hours of the national state of emergency declaration, the levees were already toppled (Moynihan, 2009). Mandatory evacuations and rescue operations commenced. Even with an advance notice of possible landfall, the response was cumbersome and coordination was lacking. Critics suggest that "limited time, poor decisions, and an inability to coordinate the network of responders" resulted in poor governmental response to Hurricane Katrina (Moynihan, 2009, p. 2). Indeed, local and national responders failed to recognize the possible impact that Katrina would have.

With respect to civil society, citizen and community preparedness was also inefficient. The Red Cross, which holds a privileged role amongst non-governmental organizations responding to disasters in the US, was not adequately integrated into the government operations (Guilford, 2010, p. 6). The official government position, articulated in *The Federal Response to Hurricane Katrina: Lessons Learned*, reported that the integration and utilization of volunteers and civil society groups was not sufficient during this response (Townsend, 2006). One such inefficiency was the inability of the federal response mechanism to utilize civil society assistance as they had “not effectively planned for integrating them into the overall response effort” (Townsend, 2006, p. Chap 5). This involved logistical support failings and a failure “to match relief needs with NGO and private sector capabilities” (Townsend, 2006). The federal report continues that, in addition to not utilizing civil society’s full capacity, federal and local government officials did not provide sufficient support to volunteers who needed housing and food for themselves in order to carry out their work. This failure to plan was compounded by the scale of the disaster and the vast number of volunteers offering their assistance in the aftermath of the storm, which was overwhelming to the response in itself. It is thus clear that civil society was not appropriately integrated into the disaster operations due to lack of planning and late recognition of the needs of the volunteers and the non-governmental organizations.

Instead, community and religious organizations from across the country offered expertise, medical support and food provisions and delivered much of the aid under their own capacities. Non-governmental organizations are vital to post-disaster response not only for the work they do delivering aid but also for providing a “human face to relief efforts” amidst a difficult time in people’s lives (Townsend, 2006, p.

Chap 5). The consortia of aid agencies present in the aftermath of the disaster, including the Coordinated Assistance Network (CAN) and the National Voluntary Organizations Active in Disaster (NVOAD), worked separately but in coordination with each other to avoid unnecessary duplication of assistance and to allow for the tailoring of support to the affected individuals (Reid, 2007). The American Red Cross (ARC) established a 'Safe and Well' Registry for survivors and families of survivors to locate one another in the midst of the displacement chaos. As evidenced by the work carried out by these official associations and networks, civil society organizations did have a large and positive impact on the assistance of those affected by Hurricane Katrina.

Finally, the domestic military operation deployed for Hurricane Katrina was robust and included international support. National Guard troops are state level assets and thereby fall under the control of a governor. By 1 September 2005, over 8,000 National Guard troops were in the Gulf Coast area working to support the hurricane affected population (GlobalSecurity.org, 2011).

Joint Task Force Katrina (which was made up of national troops) was established on 1 September 2005 at Camp Shelby in Mississippi (GlobalSecurity.org, 2011). Once the use of military assets for civilian purposes was authorized by President George W Bush, commanders ordered ground troops to "do whatever was necessary" in support of those affected by the storm (Wombwell, n.d., p. 183). According to the official *Federal Response to Hurricane Katrina: Lessons Learned*, the "integrated use of military capabilities" was a critical challenge in the Hurricane Katrina response (Townsend, 2006). Military procedures put in place before the hurricane specified that all military response assets were to be 'pulled' and only upon an official request.

In other words, military responders needed to wait to provide assistance until a government authority specifically requested assistance. These official requests would come in the form of 'mission assignments' from the Federal Emergency Management Agency (FEMA). If specific military assets were needed, a mission assignment would outline the specific needs to be filled. This was to make sure a civilian response did not turn into a military-led response.

Because Hurricane Katrina was such a large event and local response operations were unprepared for the impact of the storm, additional supplies and personnel were needed. However, because of the 'pull' system just described, assistance was slow to reach those affected and thus resulted in "needs not being met" (Townsend, 2006, p. 54). Hence the military's role in disaster response was not adequately prepared for and the lack of integration led to shortcomings in assistance.

NATO also carried out a review of their role in the Hurricane Katrina response. NATO responded to an official US request for assistance and coordinated an airlift of various goods and assistance from NATO-member countries. It then provided an air bridge for the delivery of items such as tarps, blankets, meals ready to eat and other essential supplies (Anonymous, 2006). Like US domestic officials, NATO recognized the very particular role that a military can play including providing relief supplies, transport, field hospitals, and other assets military operations have readily available and deployable within very short turnaround times when requested.

2.5.4 Reconstruction

By 2010, 400,000 people displaced by the storm had yet to return to the region (Guilford, 2010). In this section I discuss the key points of the reconstruction phase of the Hurricane Katrina response. I have sub-divided this phase into response actors within the reconstruction phase: civil society, the international community, and the military.

Not all of those internally displaced were received as 'guests' into host communities. Many were often met with resentment upon reaching their new residences. In some cases internally displaced people were prevented from settling in certain communities because of an anti-outsider sentiment partially based on a lack of trust. 'Not in My Back Yard'-ism, for example, was rife in areas of Louisiana where the government was trying to build trailer parks for the homeless evacuees (Aldrich & Crook, 2008).²⁹ Despite government pleading for citizens to welcome these new communities, those associated with the 'NIMBY' viewpoint were able to prevent the establishment of the sites on the grounds that it would undermine their own community ties and societal well-being (Aldrich & Crook, 2008).

In the areas where citizens were ordinarily friendly and trusting of their local governments and neighbours there was a high level of social capital. Research carried out in the latter stages of the response to Hurricane Katrina found that the

²⁹ NIMBY is a term used often in environmental movements to describe the sentiment of those in opposition to social service facilities, low income housing, waste facilities, etc. Research done on community groups blocking social service facilities have found that these groups have the dual effect of preserving their property values and way of life as well as giving those society members a sense of 'psychic gratification' (the feeling that things are as they should be) (Gerrar, 1993). Gerrar suggests that this is based on racist and similar sentiments "that society as a whole regards as repugnant" (1993, p. 517).

highest rates of protest against trailer sites were in locations with the highest social capital, measured by statistics on voting and citizen activism (Aldrich & Crook, 2008).³⁰ Governmental bodies were most weary of citing new trailer parks in these communities. The concern was that those neighbourhoods with extensive civil engagement could organize protests and instigate bad publicity for the scheme (Aldrich & Crook, 2008, p. 4).³¹ Usually, one would expect civil society to support the affected co-citizens. Instead, Hurricane Katrina demonstrated that where high levels of social capital existed, i.e. voting and citizen activism, civil society hindered government efforts to support the affected individuals.

The national government also played a distinct and pivotal role in the Hurricane Katrina reconstruction phase. As a result of Hurricane Katrina, the US Government implemented measures to improve preparedness for all future disasters (Townsend, 2006, p. 65). Also, the US Government pushed for broader powers in the event of a national emergency. The federalist system where states maintain control tends to be slow and does not provide for the level of security deemed necessary by national level officials (Townsend, 2006, p. 66). In order to create a robust federal response operation, the Federal government intends to build their operational capability (Townsend, 2006, p. 68). This includes increasing commodity stockpiles, improving logistical capacities and creating better communications systems for responders to communicate with each other in the middle of the disaster.

Public assistance programmes funded by the federal government and carried out by the state and local parishes helped to rebuild roads, utilities, schools, police offices,

³⁰ Interestingly, these communities were also statistically better-off in financial terms.

³¹ Social capital is best understood as the accumulation of trust, social norms and networks which affect how societies function (Nakagawa & Shaw, R, 2004, p. 6)

fire departments and healthcare facilities (FEMA, 2013). The 92,000 people housed in trailer parks were finally moved to permanent residences in 2012 (FEMA, 2013). This was, however, seven years after the storm meaning that those affected by the hurricane were in limbo for a very long period of time. Also, many of the trailers used to house those affected were found to have problems with formaldehyde thus resulting in health problems for the evacuees (CDC, 2008). In sum, recovery operations were wrought with their own set of problems.

In this disaster reconstruction phase the military also provided support. By 11 October 2005, most of the military's support operations had been completed and troops began to withdraw (Berthelot, 2010). The Army Corps of Engineers had drained the city of flood waters. At this point, humanitarian relief, the life-saving and life sustaining assistance provided to those affected by a disaster, had ended. Assistance to those still in need was transitioned to federal long term recovery offices and civil society organizations.

The engagement of a national military for local law enforcement is controversial and prohibited in the US without a presidential order (Wombwell, n.d.; GlobalSecurity.org, 2011). Americans fear that a military in charge of local policing will become too powerful and undermine democratic processes. However, in this instance, and with so many troops on the ground, there was no conflict of interests in the long term. National troops left and local responders carried on with policing.

The storm was a disaster of monumental proportion and it left Louisiana and the surrounding Gulf Coast area in disarray. The response required the collaboration of government, military and civil society organizations. This collaboration, at times,

lacked cohesion and coordination. The chaos was exacerbated by long term structural inequalities. Hence, recovery is an ongoing attempt to improve the social, economic and political conditions of the Gulf Coast.

2.6 Myanmar (Burma)

In this section, I will set the scene and describe Cyclone Nargis in Myanmar in 2008. As Cyclone Nargis was a real disaster which inspired real controversy as to the need for natural disaster intervention, this case will provide evidence that a government unwilling to respond to the needs of its people in the aftermath of a natural disaster is a real possibility.³² Additionally, this scenario provides a reasonable baseline for future discussion as to when intervention is appropriate.

After the violent government response to pro-democracy demonstrations in 1988, the US Mission to Burma closed in 1989 citing wide-scale human rights abuses (Human Rights Watch, 1989; US Department of State, 2016). Upon assuming power, the Burmese Generals changed the country's name to Myanmar (CIA World Fact Book, 2016). Following what many described as a 'massacre' of pro-democracy campaigners by the Burmese Army, foreign governments suspended economic aid programmes to Myanmar (Human Rights Watch, 1989). Soon thereafter, the Government ignored its own pledges to hold open and fair elections. The Generals then went on to ignore the overwhelming support for pro-democracy candidate Aung San Suu Kyi. She was arrested and has been placed under house arrest on various occasions (and for years at a time) since 1989 only recently being released (Picinich,

³² I use this evidence in Section 6.1 to demonstrate the impact of current laws and standards on those affected by a natural disaster.

2006; NobelPrize.org, 2016; Human Rights Watch, 1989). Since the Generals rise to power the US Government has cited multiple reports of their failure to support workers' rights, mistreatment of prisoners, and the torture of ethnic minorities and others held in detention (Human Rights Watch, 1989). Over the years the political situation in Myanmar has become increasingly inimical to democracy and human rights.

This case study fits within my comparative methodology because it is the disaster response that is analysed and not the government or economic system. Indeed, the type of response in Myanmar is consistent with aspects of the case studies discussed thus far. This case, however, highlights multiple failings all appear to have hindered assistance reaching those individuals affected. This case was also chosen because it is a counter example to my hypothesis and is hence used to assess whether a policy development may be necessary.

However, by assuming control of the sovereign state, the Government of Myanmar entered into a compact with its citizens to provide for their needs in an emergency. One way in which it can defend its legitimacy is through providing emergency care (Ozerdem, 2010, p. 698). I now proceed to explaining a situation in which Myanmar's legitimacy was questioned during an emergency situation.³³ The 2008 Cyclone Nargis tested the country's ability and willingness to respond to the needs of its entire population – not just those friendly to the regime and/or of the right ethnicity.

2.6.1 Impact of Cyclone Nargis

³³ For further discussion of this topic in light of sovereignty-related objections to natural disaster intervention, see Section 8.3.

On 2 May 2008, Cyclone Nargis struck off the west coast of Myanmar as a Category 4 storm (International Federation of Red Cross and Red Crescent Societies, 2008). Winds blew at 130mph and by 3 May the storm had reached Yangon (Rangoon) where houses were reported to have collapsed (Center for Excellence in Disaster Management and Humanitarian Assistance, 2008; Mizzima News, 2008). The horrific winds cut phone lines and downed power lines making it difficult for civilians to call for help and hear information coming from emergency broadcasts (Mizzima News, 2008). Hearing nothing from government officials about forthcoming assistance, civilians began to clean up after the storm (Mizzima News, 2008). The Myanmar Red Cross reported that no external assistance was required at the time of landfall (International Federation of Red Cross and Red Crescent Societies, 2008).

As in any natural disaster, as the storm passed and people were able to reach out to aid agencies and responders, the true impact of the storm became clear. By 5 May, international aid agencies and various governments were readying their response operations in support of the Burmese people. On Haing Gyi Island, one of the first areas for Cyclone Nargis to have made landfall, 20,000 homes were destroyed; this resulted in mass homelessness and the pollution of drinking water in the area (The New York Times, 2008). In the Kyaiklat region, known for rice production, 25% of buildings were destroyed (The New York Times, 2008). ASEAN called for member countries to contribute to the obvious disaster relief support required by Myanmar two days into the disaster response (Association of Southeast Asian Nations, 2008).

With nearly 4,000 people killed by the storm and a further 3,000 missing, the government of Myanmar did not appeal for international assistance. Red Cross stockpiles in-country were being distributed but supplies from outside the country

were not requested (McCool, 2008). Foreign aid workers already in-country were also restricted from moving around the affected area to assess damage despite their expertise and usual role in similar disaster scenarios elsewhere (Irrawaddy, 2008; Mizzima News, 2008). Some experts suggest that assistance was rejected by the Burmese Generals because the leaders were apathetic to the suffering of its people; it was said that upholding their sovereign right to rule within the national boundaries seemed to be of the utmost importance (Evans, 2008).

2.6.2 (Failed) Response Phase

After restricting the movement of foreign aid workers and hindering their work, the international community and the Government of Myanmar entered talks to discuss the possibility of foreign assistance being allowed into the country. However, the Myanmar Government rejected any assistance provided on foreign military vessels (Ozerdem, 2010, p. 698). It also stopped granting visas to foreign aid workers (Mydans, 2008). Meanwhile, US diplomats estimated that the death toll from starvation, exposure to the elements and disease would rise to 100,000 without foreign intervention (Mydans, 2008).

By 7 May 2008, some in the international community, most notably the French Foreign Minister Bernard Kouchner, suggested that the UN invoke the Responsibility to Protect doctrine and mobilize an intervention in response to Cyclone Nargis (Alertnet, 2008). Kouchner invoked the priority of human rights, the original driver behind the Responsibility to Protect doctrine, as the trigger for an intervention into

Myanmar.³⁴ The French further suggested that the US should intervene without the permission of the military junta managing both the country and the supposed cyclone response (Mydans, 2008). By intervening, timely food and first aid supplies would likely be delivered to those in need.

The French Ambassador to the UN Ripert argued that the national government's denial of aid into the country in a timely and suitable manner could constitute a 'crime against humanity' (Ozerdem, 2010, p. 699). On 13 May, internal European Union discussions suggested that all possible EU action should be taken; the UK Government indicated that air drops of aid were one possible course of action (Belanger & Horsey, R, 2008). An independent report on the post-disaster actions of the Government of Myanmar found that the Generals were actively blocking this and other international aid and suggested that the government be referred to the International Criminal Court for crimes against humanity (MacKinnon, 2009). Hence international action was deemed necessary by those arguing for the invocation of RtoP. Likewise, international intervention was preferred as the invocation of sanctions would likely risk long term economic instability in the country.

One argument against intervening in Burma was that the situation did not create "a threat to international peace and security" and as such no action was called for by the United Nations (ICRtoP, n.d.). Other experts suggested that an intervention would not be a guarantee that assistance would reach those affected. Likewise, an intervention would have possibly risked making a natural disaster a political dilemma

³⁴ The Responsibility to Protect (RtoP) is a norm of intervention which has been broadly accepted by the international community. The doctrine outlines the specific situations in which the international community has a duty (or responsibility) to protect humans in other countries, namely genocide, humanitarian emergencies, large scale human rights abuses and war crimes. RtoP will be discussed in greater detail in Section 6.2.4.

and thus risks political instability for the country (Ozerdem, 2010, p. 701). Long term instability would also mean that human welfare would be hindered by long term political instability (possibly conflict) triggered by international intervention. (See Section 7.3 for responses to possible objections to a natural disaster intervention policy as I have suggested.) Additionally, the international community had to weigh the impending death of Burmese citizens against the country's sovereignty. Gareth Evans further argued that any intervention for a cause not originally agreed to under the terms of RtoP would undermine RtoP in general and any future invocation to assist those suffering from mass atrocity (2008).

Conversations amongst the international community continued despite calls for an intervention. Eventually, after 11 days without assistance and after extensive negotiations, foreign assistance was accepted from ASEAN. Because ASEAN is a local cooperative organization acceptance of assistance helped Myanmar save face amidst pushes for it to accept aid more widely. Finally, on 23 May, extensive negotiation between the UN and the Myanmar Government resulted in an agreement that international assistance would be allowed into the country (Belanger & Horsey, R, 2008). A forcible intervention was therefore no longer necessary. If negotiation with the Burmese Generals had not gone the way it did after Cyclone Nargis, there is a possibility that the international community would have intervened with military force.

In this section, I have chosen to focus on Cyclone Nargis for several reasons. First, this is a relatively recent disaster and the details are part of a debate still in active memory. It is easier to understand the impact and the necessary response to future disasters, if we can still remember what happened the last time. Second, the

Burmese Generals refusal of assistance provides actual evidence that a government may be unwilling to accept assistance or provide assistance for its own people. The possibility of military intervention when natural disaster assistance is refused is likewise part of recent debate. A government unable to provide for the needs of its people (due to being overwhelmed in the aftermath of a disaster) is easier to imagine and thus will be explained separately (see Sections 6.1 and 6.2).

2.7 Conclusion

In this chapter, I have described six natural disaster scenarios: the Haitian earthquake, the Horn of Africa drought, the earthquake in Pakistan, and Hurricane Katrina in the United States and Cyclone Nargis in Myanmar. Each had its own nuanced issues and response operations with which to contend. The national government did not always play the robust and central role in disaster response that it should have. National governments were supported by a combination of international, military and civil society assistance when they were unable to provide for their people. In situations where a national government was unwilling to allow external help, there was a marked difference in the level of well-being of those affected.

There are also similarities across the disasters despite the different geographies, governments and socio-economic statuses of the countries affected. First, the natural disaster affecting each country did not discriminate over who it affected. The poor, the middle class, the wealthy, and even the government officials had to deal with some aspects of the natural disaster in their region. Second, despite the post-disaster chaos, in each case some parties stepped in to support those affected. This

was not always the person or group a government expected to be in charge, namely the national government. Those put in charge should not necessarily have been given the power they were either. Third, some aspects of natural disaster response were done poorly. Accordingly, there is room for improvement and an international position on providing assistance, especially in last resort scenarios.

CHAPTER 3: LESSONS LEARNED

One of the best ways to improve response operations for natural disasters is to understand what went wrong previously. Doing so will help to fix many issues before the next natural disaster, as there will always be a 'next disaster'. Often governments and individuals assume that they learn from a disaster, especially when the solutions developed on the basis of the previous disasters seem to be working. Sometimes, however, governments do not learn. Sometimes, there simply isn't enough time between one disaster and the next to integrate changes into the response plans. Still other times, a disaster is so nuanced that, having learned a lesson, governments are still not prepared to implement the radical solutions, which would be required. For these reasons, the same problems come up again and again. The goal of writing and analysing lessons learned documents in general is to develop and exercise new response plans that resolve the issues identified.

In this chapter, I will begin in Section 3.1 with an explanation of what Lessons Learned documents are, which ones I used and why I used them in my comparative analysis. I will explain my methodological approach to analysis of the lessons learned documents. I will also explain and respond to possible criticisms of this methodological approach.

Having analysed lessons learned documents, I identified three lessons which span across the country case studies. These lessons learned are the need for strong leadership (Section 3.2), the impact of using military force for response efforts (Section 3.3), and the need for civil society (Section 3.4). For each of these themes, I will first define the terms associated with the lesson and consider the relevant

literature on the topic. Each lesson learned and its subsequent analysis will show that these are key concerns, which need attention if disaster management policy is to improve. When we look across very different disasters, it becomes clear that there are commonalities. I use these commonalities to suggest that how we carry out response is based on common assumptions. I draw attention to these assumptions at the end of each thematic section.

3.1 Lessons Learned Documents

“Lessons learned” is a phrase that is used by the response community to identify the most important conclusions of the post-disaster analysis. In developing policy proposals for future natural disaster response – at local, national and international levels of response - one must look at what went wrong in previous disaster responses. Each major disaster will have an array of lessons learned documents produced by both the government in charge and the non-governmental agencies involved in the response efforts. Disaster response organizations are very good at writing-up these failures or shortcomings in the form of lessons learned documents as they are interested in saving more lives in future disasters. In this section I first explain how lessons learned documents are developed and were sourced for analysis. Second, I explain my methodological approach to analysing them. Third, I address problems associated with comparative analysis of these documents. I end this section with an explanation of why this kind of analysis was appropriate for my research.

First, these documents are the outcome of organized reflection sessions which aim to capture and share ‘best practices’ - what went right, what went wrong, and what

could be done better in a given scenario (CDC, n.d.; FEMA, 2015a). These sessions are usually held either during the recovery phase or immediately following the close-out of an emergency depending on availability of personnel and resources. Personnel at all levels are usually invited to contribute based on their roles and as required by the type of feedback the session organizers are hoping to gain. Lessons learned sessions often have formalized structures within institutions but may be more ad hoc when multiple agencies or groups are involved.

Feedback and reflection from these sessions are then written up into 'lessons learned' documents. Disaster databases such as ReliefWeb, PreventionWeb, and INSARAG were the most helpful in finding lessons learned documents and related material. (OCHA, 2017; OCHA, 2012; UNISDR, 2017). Many international NGO lessons learned documents from various disasters are accessible through or noted in this database.

Having sourced the documents I then embarked on the second stage of my qualitative analysis: lessons learned document analysis. Lessons learned documents lent themselves to identification, analysis and comparison of human experience and reaction to a given external trigger (a natural hazard) (Saldana, 2013, p. 10; Teune, 1990). The natural disaster responses should be seen as the explanatory units because they makes sense of the pattern of lessons learned found across countries (Ragin, 1982, p. 106).

I reviewed 5-10 international and national manuals related to disaster response. Manuals and guidelines allowed for a 'control' set of response operations: deviations or non-deviations from expected response operations and how this figured into

response outcomes. Response outcomes were set out in the lessons learned documents.

I worked through over 20 lessons learned documents and reports (both disaster-specific and natural disaster response more generally) from national governments, regional governance bodies, international humanitarian response organizations, and non-governmental organizations. This helped me assess the validity of my argument (that there are situations where a government may be unable or unwilling to help its people and that other groups – the military in particular – may need to provide assistance) across a set number of variables (Hopkin, 2010). I then pre-coded for key words based on my hypothesis and research question. Manual coding, i.e. with highlighting, was sufficient for the size of my sample (Saldana, 2013).

After having done this comparative analysis of the lessons learned documents I critically evaluated the material. I determined which lessons were found across countries which also played a part in a state government's inability or unwillingness to provide for the needs of its people. These common lessons to learn had to do with leadership, the role of the military, and the role of civil society.

My third point in this section is that there are some difficulties in carrying out the type of comparative analysis that I did. Most importantly, not all countries or agencies carry out lessons learned sessions, let alone write up and publish their results. I accept that a comparative analysis thereby opens me to criticisms related to my case study choice, interpretation bias and 'selection bias' due to the public availability of these documents, as well as my decision to work only in English (Teune, 1990; Hopkin, 2010; Saldana, 2013). However, the lessons learned documents included in

this thesis are mostly outputs of international NGOs and so should be as balanced as (politically) possible. Lessons Learned documents from national governments were used when available. I attempted to sort through and only use those which were seemingly neutral in their self-criticism and praise. Neutrality was not a qualifier for inclusion in my thesis but I attempted to find those that were empirically consistent with other documents developed in the aftermath of the same disaster. The lessons learned documents reviewed for this study were issued by agencies with varied interests and therefore represent different perspectives. Whilst not comprehensive, these lessons provide examples of the varied expectations and inconsistent support offered to those affected. Analysis of these lessons learned documents helped me achieve my goal of demonstrating that some operational failings are driven by outdated norms about who receives assistance and how that assistance can be provided. I will argue that the lessons described in this chapter are thus representative and appropriate for this type of analysis.³⁵

As for being representative, I also made sure that the subject countries included varied levels of economic development, different regions of the world. I also wanted to check the appropriateness of my theory against different types of natural disasters – earthquakes, droughts, and hurricanes. The specific emergencies discussed in the previous chapter and throughout this thesis represent this spread of different types of natural disaster and types of socio-economic status.

³⁵ Additionally, this chapter does not offer solutions or suggestions for how to improve disaster response plans. In this chapter I will show that there is a role for military responses in general. Importantly, readers should note that international military interventions are particularly excluded from the possible response operations available to the international community (see Section 1.3 for relevant discussion). Accordingly, this thesis does not address disaster risk reduction; that is the focus of a different thesis and a different overlap of academic literatures. I will make the case for the development of natural disaster military intervention policies in Chapters 6 & 7. In Chapter 7 specifically I will show that the case for military intervention actually does need to be made.

Finally, what I found through this lesson learned analysis is that better planning is not the panacea that response agencies hope it to be. I argue in this thesis that we must prepare for the possibility that national plans will fail. It is in that eventuality (and with the knowledge that humans are flawed and will make mistakes when responding to disasters) that the international community must be prepared to act. For now, in this chapter I will draw out specific lessons across the case studies which demonstrate that, despite our best intentions, national response plans fail.

Furthermore, I engaged with lessons learned documents because I did not want this thesis to be based strictly on theory or academic research but rather on real lessons learned from real disasters. This thesis was triggered in part by the fact that there is not an international system/policy for providing assistance in a natural disaster scenario when a national government is against such assistance. This has always struck me as peculiar because there are international systems/policies for providing assistance/aid in the event of genocide, civil war, humanitarian emergency, etc. My research aims to make sense of this lack of policy. So, knowing that there is no international system in place, I needed to look at national level response to see if there are situations in which international assistance may have been useful but was not requested or accepted.³⁶

Taken together, the lessons identified from my analysis in this chapter are consistent across national borders. The lessons also point to poor response operations and a lack of contingency plans on the part of the international community. Additionally, they provide evidence that the duties associated with the human right to welfare are

³⁶ This was a problem-driven analysis and so any observational unit other than the state would be inappropriate given the state's central role in natural disaster response.

not being fulfilled. Challenging how the international community thinks about and makes policy which accounts for its obligations to ensure the goods associated with the human right to welfare will help us to establish a new natural disaster military intervention policy. I address these norms in Chapters 4 and 5 respectively.

3.2 Leadership

I will first address a lesson identified through analysis of the lessons learned documents, namely the need for strong leadership during natural disaster scenarios. I will first provide a working definition of leadership. I will then consider leadership in a non-disaster context and explain the three levels of governance at which leadership can be analysed. Finally, through the analysis of three of the cases studies of Chapter 2, I will explore leadership in the context of natural disasters.

Let us begin from a standard definition of leadership. Leadership is an organisational role, one that coordinates and influences processes (Bolden, 2004, p. 5). At its most fundamental, leadership is the control over a certain group of people and involves bending followers to one's will. Ideally, leaders should be flexible to changing circumstances and inspire those who are following them so as to maximize output and motivate followers (Bolden, 2004, p. 5).

Experts have suggested that effective disaster leadership should include two leaders: one political leader who speaks to the media and responds to public concerns and one operational leader who is in charge of the logistical and functional aspects of the disaster, orders supplies and has real-time situational awareness of the event for the purpose of response (Leonard & Howitt, 2006, p. 4). Both the

political and operational leaders are included in this leadership analysis. Political leadership is always present at the local, national and global level. Excellent crisis response furthermore requires knowledgeable, practised leaders who exhibit the best skills and experience available (Leonard & Howitt, 2006, p. 4; Leonard & Howitt, 2007, p. 7). The necessary balance of both types of leadership during a natural disaster response scenario is, however, rare.

3.2.1 Political Leadership

As I just explained, leadership during a natural disaster should contain both a political and operational element. The current global political system prioritizes state-level leadership as opposed to local or global leadership. We therefore tend to understand political leadership with the model of leadership at the state level. In some forms of government state-level leaders are elected whereas in other forms of government a state leader is chosen from a political party or a ruling family. State leaders also have the power to organise and direct a population within the borders of a nation-state. Furthermore, national leaders also have the right to wage war, distribute property, and collect taxes among other things (Pogge, 2001, p. 20).

This way of understanding political leadership is not directly applicable to local leadership. Local leaders, such as mayors, tribal chiefs and county councils, are responsible for their citizens but the political and social structures that have put them in power differ, as too does the extent of their responsibilities. For the purpose of this study, it is important to point out that the authority of local leadership is usually not internationally recognized. Their power in this regard is severely limited, despite both their tendency to be 'on the ground' when a disaster strikes and their acute

knowledge of the local geography and population. Locals have expertise when it comes to their area and they are vital for providing information to national and international responders during a disaster. Indeed, “unconventional events make empowerment of local actors critical because they [disasters] compromise system-wide communications, and thereby restrict the framework of decision making and trust to face-to-face contacts” (Lagadec, 2007, p. 31). As local leaders are the usual and consistent contact in ordinary circumstances, trust during a disaster is more forthcoming. Nonetheless, local leaders do not have the level of power necessary to provide the same degree of influence as national leaders.

The international community also plays an important role in disaster response but, like local leadership, it has limited authority. The international community consists of and takes its lead from the national governments. The United Nations, the World Food Programme and the European Union, among others, provide leadership on policy and norms. These institutions are, however, constrained by the power of the national governments. Indeed, the power of international leaders is based on national sovereignty (see Chapter 8 for discussion of national sovereignty). Because of this, the international community does not have the same obligations to the affected individuals as the national level governments.

In crises that are not natural disasters, many organizations and national governments believe that the international community is the appropriate level of governance for political leadership. The United Nations, in particular, is considered vitally important for supporting humans in emergency situations:

...there is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protective purposes. The task is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work better than it has (Brock, 2009, p. 184).

The United Nations is recognized as an authoritative body and drives the legal and normative framework for the delivery of human protective assistance. The global community is compelled to provide for all individuals equally. The global community does not, however, have the authority to actually lead individuals. Because authority rests with national governments the international bodies can only lead policy development and change norms. They cannot always change response operations by themselves.

In sum, there is leadership at three levels of governance. However, only national governments have the authority to act in the strongest sense. Accordingly, national governments are crucial and unique bodies within governance structures and disaster response. Ultimately, a national government has the legal responsibility to provide for the needs of its citizens and to act as the political and operational leader during crisis and non-crisis situations. While local and international leaders can play significant roles in disaster response, often their capabilities are limited and they require authority from national governments for effective action.

3.2.2 Leadership in Disaster Scenarios

With an understanding of the roles of each level of government, it is now possible to explain how leadership manifests itself during a natural disaster scenario. It is also important to take into account that leadership, as it exists in ordinary circumstances,

may not be possible during disasters. Real world examples show that leadership deficiencies exist in different types of disasters, in different locations and it is indeed necessary to address this lesson. Leadership failings that emerge include those associated with absent leaders and inadequate leadership.

Three of the previous case studies, Haiti, Pakistan and the Horn of Africa, help to clarify the leadership problems evident in many natural disasters. By analysing multiple disasters it becomes clear that dynamic leadership, flexible to the demands of the changing and globalized world, is not always present in a disaster situation. Most importantly, the concentration of authority in the hands of the national governments is problematic.

Two main theoretical lessons of leadership can be extracted from the previous case studies. The first involves the complexity of natural disasters. The second illustrates the need for continuity planning with regard to leadership. A review of the need for continuity planning highlights the problems of concentrating leadership at the national level, thus making the national government the sole locus of power. This leadership analysis also supports the need for identifying what role the international community should play in national natural disasters.

Lesson 1: Stagnant leadership and dynamic disasters

First, disasters are often complex and confusing. Research has shown that “response efforts to catastrophic or hypercomplex crises do not deal with a single affected framework (‘ground zero’), or even with an interconnected chain of destabilized frameworks: but with ‘sickened’ dynamics and movements within them

[disasters]” (Lagadec, 2007, p. 9). Margareta Wahlstrom, Special Representative of the UN Secretary-General for Disaster Risk Reduction, also suggested that societal vulnerability to disasters increases as a society becomes more complex (2013). She goes on to explain that the international disaster response community must find a way of dealing with the ‘emerging risk’ of increased vulnerability. Natural disasters throw every political, social and response system into disarray.

Leaders feel the impact of this chaos and, overwhelmed by the events, rely upon longstanding response systems. For example, “...leaders destabilized by unconventional or ‘unthinkable’ events, and eager to be seen as ‘doing something,’ will grab to ‘what they know’ (or what they think they know) for dear life, and rush with delight to comfort zones where black-and-white still prevails” (Lagadec, 2007, p. 29). The increased risk of disaster vulnerability is thus compounded by leaders unable to let go of previously held beliefs about an ingrained understanding of how leaders should respond in disaster situations.

Response systems not already entrenched in a leader’s skill set are thus disregarded (Lagadec, 2007, p. 29). Each disaster scenario will likely have its own nuanced response requirements and leaders will have a certain way of dealing with the complexity of the disaster in question. It is often the case that new methods of response are available to leaders. However, when a system of response is new or untested, a leader is often unable to adapt the response to those new systems in the midst of the response. As a result, new methods of response and skills are disregarded.

For example, even though the people of the Horn of Africa have suffered through drought for years, the leaders of this area have not drastically changed their response methods. Those suffering from the 2012-2013 drought were already malnourished and desperate before this drought occurred. With no changes to response plans or the adoption of new disaster leadership skills, the people of the Horn of Africa would likely (and obviously) suffer the same fates as they did in the last drought.

On the other hand, Ethiopian leaders had integrated their relationships with NGOs into their national response planning. The Ethiopian government accepted international support during the drought (Slim, 2012, p. 6). Learning new strategies for disaster response thereby improved the support provided to drought-affected people. Meanwhile other countries of the Horn of Africa had poor national governance and did not attempt to enhance their own procedures between the droughts (Slim, 2012, p. 5). Without a change of leadership, response methods or external assistance, population vulnerability increases. Accordingly, the disaster response to the drought in some Horn of Africa countries was inadequate.

So, the national leaders are often limited by the current theoretical frameworks and their lack of adaptability. Where new international norms are developed, often they are not implemented because national leaders have not changed their default assumptions about disaster response. In the Horn of Africa example, we saw that the leaders tended not to trust international assistance. Take, for example, the expulsion of international aid workers from Somalia between November 2011 and January 2012 (Oxfam, 2012, pp. 15-16). Somali leaders did not trust nongovernmental

organizations as they were seen as proxies of Western governments attempting to infiltrate and oust the national government.

Accordingly, with this lack of trust and cooperation with international response organizations, national political leaders are loath to adapt to changing norms. If the theoretical component of 'what leaders know' is changed to an acceptance of the role of the international community, there will be a greater possibility for integration of these new norms and the eventual improvement of assistance to affected individuals during disasters. The complexity of disasters thus creates a need for national leaders to accept that 'unconventional' disasters require 'unconventional' responses (see Townsend, 2006, p. 73).

And so, poor anti-famine preparedness on the part of national leaders can be blamed for poor drought response. When leaders fall back on what they know, old mistakes continue to be made. We see that when the default response processes are changed through relationship-building activities with the international response community and others (like in Ethiopia), response is improved and people are saved.³⁷

³⁷ My emphasis on the military is not meant to undermine the role of civilian leaders and civil society. Disasters are complicated and any natural disaster will require a multiagency response. Indeed, any military intervention should be accompanied by civilian leadership and a robust civil society apparatus where possible.

Military interventions are currently deployed for other emergencies as a last resort and when other response bodies are either unprepared or unproductive. That said, militaries deployed to support in the aftermath of a natural disaster usually do so with the consent of the government affected.

Lesson 2: Need for Continuity Planning

The second leadership lesson points to the need for continuity planning for two reasons: (1) there may be no locus of power in a natural disaster scenario and (2) the international community must be included in natural disaster response planning. Let us first consider situations in which the actual governing bodies and/or the physical structures in which leaders govern have been destroyed by a disaster as was the case in Haiti and Pakistan. In such cases, there was no locus of power.

A country's leaders are required to act in a disaster so that the political and operational requirements of the response can be fulfilled. From the case studies in Chapter 2, it is clear that the usual leaders may not be able to carry out their responsibilities. In the case of Haiti, the international community directed the national response. After the Pakistan earthquake, the national military took control of the country's response operations. In both of these case studies, the stand-in leaders had varying degrees of success.

With the absence of a clear leader, or at least a clear delegation of authority, the future legitimacy of those supposedly in charge of a disaster comes into question. To address the possibility of there being no locus of power during a natural disaster, the transition of leadership away from a national government should be integrated into continuity planning. If national leaders accepted that they might not be present in the aftermath of a natural disaster, they would be able to make plans that empower other sources of leadership, remove the threat posed by the potential for intervention (as was the worry in Somalia) and allow for an improved quality of response to affected individuals (Oxfam, 2012, pp. 15-16).

Continuity planning for disasters is not a new concept and many national governments have operational procedures in place for the delegation of authority.³⁸

In situations in which the continuity of operations plans (CONOPS) do not include arrangements for delegation of authority to an appropriate body when a national government is unable or unwilling to lead, plans for leadership continuity should be developed as part of preparedness measures. CONOPS will help to transition the government's legitimacy thus maintaining its sovereignty and supporting an effective response operation (see Chapter 8).

With the development of continuity planning, the role of the international community should also be reconsidered. In the Haitian example, leadership was identified as a failure in the response operations (Humanitarian Practice Network, 2010, p. 2). In this case, 28 out of 29 government offices were destroyed and officials were, themselves, physically affected by the earthquake. Planning by the national government simply did not include the idea that it too could be affected by a disaster and that the international community would be the first, and possibly only, responders at least in the immediate aftermath of the disaster.³⁹

³⁸ 'Continuity planning' (otherwise known as continuity of operations) is a process used by governments and corporations to ensure that an emergency situation does not stop their activities entirely. Clearly, an emergency will require actions outside the day-to-day operations. Continuity planning usually involves delegation of responsibilities, identification of key tasks and responsibilities, and a system for scaling back up to normal once the emergency has passed.

³⁹ It has been noted that Haiti's position as a failed state may have worsened the impact of the earthquake. Indeed, "failed states magnify the effects of natural disasters. There probably would have been considerably fewer deaths and damage to property in Haiti from the January 12, 2010, earthquake if the country had a working state to enforce building codes, extract victims from the rubble, and provide emergency care" (Gros, 2012, p. 1). Gros suggests that this demonstrates the importance of state-based post-disaster recovery. I agree. However, it is naïve to believe that we can transition all failing states into stable states and that the international community can ensure that no state will ever transition into a failed state. Instead, I argue in this thesis that there must be alternative international policies which account for the possibility that a state will be unable or unwilling to provide for its people in the aftermath of a natural disaster.

In fact, an official report suggests that in countries where basic needs are difficult for governments to attend to, such as in Haiti before the earthquake, the international community should be charged with leading preparedness and mitigation efforts (McClellan, 2012).⁴⁰ Understandably, the suggestion that the international community should lead efforts for planning may go a step too far for some as it takes the onus away from the national and local governments. But it is important to recognize the interdependence of countries and the need for the international community to act in the absence of a national government.

This is an opportunity for the international community to suggest a move away from national governments as the sole locus of power. Recognizing that the concentration of all natural disaster response authority in national leaders is negligent will help us to improve response planning. The global aid community already plans for and is willing to have a role in national level disasters. However, the international community's role in a natural disaster needs appropriate pre-planning to ensure that an international natural disaster response is effective in actual disasters.

To sum up, if national disaster response leaders accept their own limitations, they will be able to make plans that empower the international community to step in as needed. At the same time, this type of response plan will remove the threat posed by the potential for overbearing international interventions. This will be discussed in more detail in Chapter 7. For now, it is enough to note that mixed leadership, including local, would allow for an improved quality of response.

⁴⁰ See footnote 35.

3.2.3 Leadership Conclusion

Analysis of leadership across disasters allows for the emergence of thematic lessons. As the two lessons in this section (the complexity of disasters and the need for continuity planning) have demonstrated, leadership is about providing adequate support to individuals regardless of the hardships that leaders themselves face. Complex disasters disorient leaders causing them to resort to 'what they know'. It is therefore necessary to change the underlying principles that guide emergency management and make the new norms the default position. Also, the absence and/or inadequacy of some leaders at the national level make it clear that maintaining the locus of power at the national level can be dangerous. A failure to recognize this and the resultant exclusion of the international community in continuity planning leads to ineffective and poor natural disaster response.

3.3 Military

The second natural disaster 'lesson learned' in this chapter involves both the integration and the role of military forces in a natural disaster response. A military response to any natural disaster will have controversial elements. The likely death toll caused by the use of force alone is reason enough to avoid engaging the military beyond war-fighting. Mission creep, civilian casualties and destruction of property added to the already chaotic devastation caused by natural disasters is simply too much to bear. That said, military force is very often used in national natural disaster

response. In this section I will therefore focus on the role of the military, specifically how and why a foreign military should be involved in a natural disaster response.⁴¹

In 3.3.1, I will describe what the term 'military' means in the context of this thesis. In 3.3.2, I will explain military responses to humanitarian and other emergency scenarios. I include an explanation of what we gain from studying military operations in peacekeeping and humanitarian intervention so as to justify later comparison with natural disaster emergency management policy. In 3.3.3, I will explain the role of the military when it is engaged to support natural disaster response and the debate which surrounds this function. Using the case studies presented in Chapter 2, I will draw the reader's attention to the emerging theoretical lessons of appropriateness and sustainability in Section 3.3.4.

3.3.1 Military Response Operations

Let us begin from a brief description of what military forces are. Simply put, military forces consist of armed personnel and weapons systems. They are assets of the nation-state used for defending the national interest and waging war. A standing international military does not exist and so a national military must deploy or offer troops under a specific mandate.⁴² Indeed, national military forces are used under different mandates based on the type of operation in question (war, peacekeeping, humanitarian intervention or, domestically, civil protection). A national military will usually not be deployed in an international event unless all other options have been exhausted.

⁴¹ See footnote 35.

⁴² Cabrera and Pattison have both offered suggested models of a cosmopolitan UN force to deploy for international disasters (Cabrera, 2004; Pattison, 2008)

Despite every effort to use the military as a 'last resort', international, regional and local military forces play a growing part in natural disaster response operations. Whether or not military forces should be employed to assist in emergency response at all is much debated. In this section, I first take up this debate in general terms. I will then examine the role of military force in peacekeeping operations and humanitarian interventions. By looking at the use of military force in these traditional scenarios, we see that military capabilities are also utilized for purposes other than merely fighting wars. This thesis will later argue for the use of military force in natural disaster response where appropriate.

During peacetime, armies, navies, and air forces have expertise and equipment that can be called upon to support an emergency situation – foreign or domestic. However, because their central function is fighting wars, a military's general use in situations other than war is much debated. A WorldVision Report explains the perspectives of different NGOs on engagement with the military forces during natural disasters. It separates these viewpoints into three categories: principled pragmatists, refuseniks and ambivalents (Thompson, 2008, p. 7).⁴³

First, the proponents of military involvement in humanitarian operations (the so-called 'principled pragmatists') suggest that security and logistical support as well as the speed with which the military can respond are important reasons for using the military in the relevant situations (Thompson, 2008). The pragmatic component of this viewpoint suggests that there cannot be hard and fast rules about when a military should be utilized (Rana & Reber, 2007, p. 3&6). Troops and staff train for

⁴³ For more on the value of utilizing principled pragmatism see "Principled pragmatism - the way forward for business" from the OCHCR (OCHCR, 2010)

immediate reactions to changing circumstances and thus are quickly deployable in situations in which every moment counts. Militaries also usually maintain a high level of expertise that is useful in natural disaster response. They also have stockpiles of disaster specific provisions available.⁴⁴ As for operational support, armed forces are often the only organization – national, international, civilian, or humanitarian – able to provide airlifts of food, medicine and personnel (see Thompson, 2008; Seybolt, 2008). These responses, though, are situation specific. Thus decisions to deploy a military must be based on firm policies implemented at the right time and to the right degree. Security and logistical support are vital contributions to the response effort and so there are often many good reasons to include the military forces in the natural disaster response.

Those against military involvement (the so-called ‘refuseniks’) argue that a military’s presence can cause drastic and long term problems for society, despite being well-intentioned. Often military forces provide humanitarian assistance “...to win hearts and minds’ of local communities...” and “...to enhance specific military and political objectives” (Thompson, 2008, p. 24). With political objectives being in many cases at the root of military intervention, fear of impending imperialism is often justified. Ulterior motives for the delivery of humanitarian assistance undermine the assistance process and contribute to a distrust of the aid community in general (see Seybolt, 2008). This is a clear reason why many countries may refuse military assistance during an emergency.

⁴⁴ The terms ‘usually’ and ‘often’ are used because national capacity and capabilities greatly vary from state to state.

There are still others (the so-called ‘ambivalents’) in the debate who accept the role armed forces will play in response efforts as a necessary-evil (Harkin, 2006). They claim that we cannot always help those in need of assistance without getting our ‘hands dirty’.⁴⁵ However, the possibility of dirty hands and mission creep will exist regardless of the plans established pre-disaster.⁴⁶ An ambivalent attitude to the use of force is not apathy. Rather, an ambivalent sees neither the use nor non-use of force as a superior option.

Thus, the use of military forces is contentious in all emergency situations. Decisions about whether to use military assets in emergency response in general are guided by very different views of the role of military and possible outcomes associated with using force. How this ultimately affects natural disaster response will be addressed in Section 3.3.3.

3.3.2 The Military in Peacekeeping Operations and Humanitarian Interventions

I will now explain how military forces are used in peacekeeping operations and humanitarian interventions specifically. Peacekeeping operations and humanitarian interventions are similar to natural disaster response in that they all attempt to assist humans affected by an emergency. With affected humans as the common link, this section establishes a basis for future analysis of the role of the military in a natural disaster response. Here, I will explain certain aspects of the use of force in traditional military operations short of war.

⁴⁵ The problem of ‘dirty hands’ will be described in Chapter 7.

⁴⁶ See footnote 19 for a description of mission creep.

First, peacekeeping is a post-conflict mechanism intended to create stability and calm tensions between parties in the conflict. Peacekeeping missions are authorized under Chapter VII of the UN Charter and they are intended to be used as a ‘last resort’ as encouraged in Article 41 of the UN Charter (United Nations, 2015). Actual implementation of Chapter VII (in which Article 41 can be found) requires international consensus. External parties and (sometimes) certain domestic parties, then negotiate amongst themselves as to how best to integrate foreign militaries into a post-conflict situation. Peacekeeping operations are guided by three central tenants: consent, impartiality and “non-use of force except in self-defence or in defence of the mandate” (UN, 2013).⁴⁷ With its emphasis on impartiality and use of force as a last resort, the role of the military in peacekeeping operations is separate from fighting wars and it stands as an example of one way military force can be used.

Military forces are also integrated into international response operations in the cases of genocide, famine and other mass atrocities. Once again, the idea that a military should be engaged when all other options have been exhausted, as a ‘last resort’, drives military engagement in humanitarian emergencies.⁴⁸ (For discussion on the role of the military in natural disaster response see (Wiharta, et al., 2005).) Indeed the Secretary General’s High-level Panel on Threats, Challenges and Change,

endorses the emerging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of humanitarian law which sovereign Governments have

⁴⁷ See also Chapter 7 for further discussion of just war principles.

⁴⁸ The premise of ‘last resort’ is discussed in detail in 7.2.4.

proved powerless or unwilling to prevent (Secretary General's High-level Panel on Threats, 2004).

It is generally accepted that the international community has a responsibility to intervene militarily when all other options have been exhausted in the given cases. Humanitarian intervention and peacekeeping, pre- and post-conflict response operations, respectively, both require international engagement and consider the use of armed force as a last resort. Furthermore, response policies for both emergency situations support the notion that sovereignty is not a sacred norm of the international community to be upheld at all costs (see Chapter 8). These themes re-emerge in the following discussion of military response to a natural disaster.

3.3.3 Military and Natural Disaster Scenarios

National military response is a separate but related issue to the use of international military forces. In addition to peacekeeping missions and humanitarian interventions, national militaries are also increasingly called upon to respond to natural disasters. In this section, I will explain the role of the military in natural disaster emergency response specifically so as to demonstrate that using military force in emergencies in general is quite common. I will also use case studies from Chapter 2 to consider the appropriateness and sustainability of using military force in natural disaster response. I will first describe the main international documents on the use of military assets in natural disasters. By explaining the contents and norms set out by international guidelines I set out the internationally recognized ways in which military force should be used to assist humans. This helps identify likely issues related to the use of force. In later chapters these guidelines will contribute to the establishment of a framework for the use of military assets for natural disaster response.

First, let us look at two guidance documents for military involvement in natural disasters: the *Guidelines on the Use of Foreign Military and Civil Defence Assets in Disaster Relief* (also known as the Oslo Guidelines) and the *Use of Military or Armed Escorts for Humanitarian Convoys* document (Multinational, 2007). The Oslo Guidelines were signed in 2006 and set out the rules for military involvement in natural disasters.⁴⁹ According to this agreement, militaries are to be used as a ‘last resort’ after it has been ensured that all civilian alternatives have been utilized and civilian leaders maintain control of the disaster.

The Oslo Guidelines state that:

[m]ilitary and civil defence assets should be seen as a tool complementing existing relief mechanisms in order to provide specific support to specific requirements, in response to the acknowledged ‘humanitarian gap’ between the disaster needs that the relief community is being asked to satisfy and the resources available to meet them (Multinational, 2007).

The Oslo Guidelines further specify that:

[m]ilitary personnel providing direct assistance should not be armed and should rely on the security measures of the supported humanitarian agency (Multinational, 2007, p. 41).

According to these Guidelines, the military is a support mechanism to the larger natural disaster response operations. The military is prohibited from acting on its own initiative and in a capacity similar to that during a conflict. Additionally, the Oslo

⁴⁹ Signatories to the Oslo Guidelines include the following: Argentina, Austria, Belgium, Germany, Indonesia, Italy, Japan, Kenya, the Netherlands, Norway, Russian Federation, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, AFDRU, Brown University’s Watson Institute, DHA, European Union/ECHO, ICDO, ICRC, IFRC, INSARAG, NATO, Steering Committee for Humanitarian Response, UNHCR, UN Legal Liaison Office, University of Naples, University of Ruhr, WHO and Western European Union. Over 180 delegates from 45 States and 25 organizations attended the conference (Multinational, 2007).

Guidelines reinforce the United Nations General Assembly Resolution 46/182 which states that “humanitarian assistance must be provided in accordance with the principles of humanity, neutrality and impartiality” (Multinational, 2007, p. 7). Military operations are thereby modified so as to adhere to these three principles and provide a particular (and required) service in natural disasters.

The second guidance document, *The Use of Military or Armed Escorts for Humanitarian Convoys*, outlines the rules for military convoys offering protection to civilian aid deliveries (OCHA, 2001). This document recognizes that humanitarian officials may be fired upon or run into security risks while delivering aid. Because of this, armed escorts for humanitarian organizations are, when necessary, allowed as guided by these regulations (OCHA, 2001). This guidance attempts to balance the principles of humanity, neutrality and impartiality with real-world operational requirements and describes how military forces should be integrated into a natural disaster response.⁵⁰

Despite the existence and application of these rules and regulations, practical implementation issues persist. Even if the impetus behind military support for a natural disaster *is* neutral, militaries are not perceived as neutral and therefore they can undermine the validity of the mission. Foreign military presence also creates tension and an air of interventionism (whether it exists or not). In sum, while military assets are useful in an effective response, their main objective, namely security, comes into conflict with the spirit with which international guidance for natural disaster response is intended.

⁵⁰ See footnote 35.

3.3.4 Military Response in Real-World Scenarios

Having explained the official guidance for the integration of international militaries into natural disaster response, I will now discuss how the guidance and its implementation often play out in real-world scenarios.⁵¹ The following case studies clarify and isolate the operational lesson to be learned about the role of the military in natural disaster scenarios. By looking across disasters, the real problems with integrating and utilizing military forces in natural disaster response operations emerge. In this section I will first discuss that the integration of military force in a natural disaster scenario has failed not because the guidance or the actual forces are in and of themselves faulty. Actually, we often turn to the military because they have the right skills and capacity to carry out the required work. Second, even if the military turns out to be the most appropriate means of assistance, we must be concerned with whether it is sustainable over the course of the natural disaster response. Hence it is questionable whether using military assets for natural disaster response should be a default policy. I discuss the issues of appropriateness and sustainability here. Solutions to the problems posed are offered in Chapters 6 and 7.

Lesson 1: Military forces should not be the default provider of assistance

In Section 3.3.3, I explained the key guidance documents related to using a military during a natural disaster response. In this section, I assess the pros and cons of using a military in a natural disaster response at all. The main idea that emerges is that we cannot assume that the military will be used efficiently and ethically nor that it should be used in the first place. Military forces are mainly used because they are

⁵¹ For the most part, when the response is using domestic military assets, the previous international guidelines on how to manage the integration of foreign military assets are not pertinent.

highly efficient institutions and have a certain expertise which can be exploited during the response to a natural disaster. However, there is concern that a military operation during a natural disaster may violate neutrality, protect corrupt governments, and act as a smokescreen for interventionist intentions.

First, military forces are efficient and are often used in emergency situations because they are skilled and practiced at moving a large number of people and supplies over difficult terrain. However, it is debatable as to whether an efficient military response comes at the cost of the population's trust and the destabilization of international security. For example, the Pakistani earthquake of 2006 brought a military-driven natural disaster response to the fore of international debates. An OCHA Representative even praised the exceptional logistics and coordination skills of the military-led response (IRIN, 2006). From this case study it was quite clear that a military can be used in a natural disaster response because it is highly efficient at responding to individual and community needs.

At the same time, the International Crisis Group criticized the Pakistani military for being inefficient because it did not adequately engage with civil society (International Crisis Group, 2006). Some civil society organizations which were brought into the response were, it was feared, jihadi groups organized under new names. It followed that the military-led response was criticized for inadvertently empowering extremists (International Crisis Group, 2006). Hence non-political civil society was often sidelined while militant groups obtained access to vulnerable groups. The integration of (possibly) jihadi non-governmental organizations reinforced distrustful relationships between the people and their governments. It also undermined the trust between Pakistan and neighbouring countries.

Likewise, in the aftermath of Hurricane Katrina, the US Government decided that, in the future, military support should be pushed onto the disaster response because of the military's quick and effective response capacity (Townsend, 2006).⁵² National governments have the know-how to determine response needs and the authority to determine whether utilizing international military assets is worth the possible associated problems. The US Government is thereby in favour of using military troops during a natural disaster because efficiency is of the highest concern and it has the authority to do so.

One of the problems that occur when a military is 'pushed' into a response, though, is that using a military can be seen to go against the pillar of neutrality. Neutrality is a vital component of humanitarian response efforts.⁵³ Domestically, citizens can rightfully be concerned about a military take-over of a civilian government if forces are left un-checked when responding to an emergency situation.⁵⁴ National governments worry about the interventionist or hidden motives of foreign militaries during a natural disaster – whether or not there is a politically driven motive beyond the seemingly benevolent offer of assistance. Even if an ulterior motive does not exist, being seen as having a deeper intention in a disaster can destroy the expectation that disaster relief is humanitarian in nature and thereby negatively impact the level of trust victims will have in the responding agencies. This has a knock-on effect of undermining the national and international response capability.

⁵² 'Push' is a response term which implies that assets or personnel are forced into a situation without a request or, sometimes, even if the supplies and personnel are not needed. This is in contrast to 'pull' described in Section 2.5.1.

⁵³ See Sections 6.2, 7.2.4, and 7.2.6 for discussion on the importance of neutrality.

⁵⁴ 18 US Code §1385 forbids the use of military troops to enforce civilian laws (US Government, 1994 (1956)).

The international community is also often concerned that using military forces (foreign or domestic) in a disaster may protect corrupt governments. In order to understand this concern, consider one of the previous case studies. The Pakistani military, while an effective response body, bolstered the power of their corrupt, national military regime. This was a concern for the international bodies, who wanted to change Pakistan's governance structures.

Domestic political actors in charge at the time of the emergency may decide that a military is the only organization capable of undertaking a huge response requirement. However, leaders should be wary of abuse of power and unequal distribution of assistance as likely outcomes of a corrupt military in charge of a response. Likewise, there may be international guidance on using military forces in a natural disaster which suggests certain safeguards. Despite these international guidance documents, though, a national government can simply decide if and how militaries will be integrated into a domestic disaster response. Hence, using military forces in disaster response is both contentious and wrought with (possibly harmful) complications. Accordingly, military assistance should not be utilized as the default mechanism of response but rather should be carefully weighed against other response options. In Chapter 7 I argue that alternative safeguards be put in place and explain how this can be done to ensure neutrality and defend against imperialist tendencies of foreign governments when a military is used as a response tool.

Lesson 2: Military assistance must be sustainable

The first lesson of engaging a military for natural disaster response was that we cannot assume that the military will be used efficiently and ethically or even if it

should be used in the first place. In this second lesson I address the problem of sustainability when a military is being engaged efficiently and ethically. I will address three sustainability concerns in this section: (a) the heavy financial cost of using military support, (b) the long term effect on the people, and (c) the fact that sometimes militaries stay on longer than they are needed.

First, even when used efficiently, military forces carry a heavy financial cost. This has long been a contentious issue for those financing response operations.

In normal circumstances paying full costs for the use of military assets is more expensive than commercial equivalents because of the redundancy built into military systems. But it does depend on what is being paid for. ...even marginal costs usually include charges for subsistence, usually amounting to more than local labour charges, thus justifying the accepted principle for international military assistance in humanitarian response – under exceptional circumstances only (Harkin, 2006, pp. 11-12).

Disaster response is very expensive, and as explained, using military assets can greatly increase that cost. However, the individuals affected are not helped more because more money is spent, especially when it is spent on built in redundancies and higher wages.

For example, in March 2013, the US Government pledged \$48billion for Hurricane Sandy recovery (Young, 2014). Hurricane Sandy struck the eastern seaboard of the United States in October 2012 causing the third most costly natural disaster in US history (Zients, 2012). \$351million was assigned to the US Army Corps of Engineers (a division of the US Armed Forces) for relief and recovery operations (USACE, 2014). An additional \$5billion was allocated to the Corps in 2013 for federal

construction and restoration projects related to the storm (USACE, 2014). However, that \$48 billion will not be enough to respond to the ongoing needs of families and small business owners. As a result, there was an Executive request for an additional \$60.4 billion to be released for storm relief. With this request was a proposal for increased controls on the disbursement of funds to prevent against fraud and waste (Zients, 2012).

This response operation, while likely flawed on some levels, was not seen to be overwhelmingly flawed or wasteful. And so, most of the money spent or pledged is likely to be used for actual response measures. The point here, though, is that military support for natural disaster relief will use a huge portion of allocated funds. The cost of military support is therefore a necessary consideration when analysing the sustainability of military response efforts.

The second sustainability concern relates to the long-term effect on those affected by the event. An unsustainable response simply delays the suffering of those affected that would have occurred in the immediate aftermath of the disaster. A military response must be sustainable thus providing for immediate needs as well as instituting measures that ensure a return to normality. Reports coming out of recent disasters point to the need for a “unified needs assessment and coordination framework” so that the proper commodities and assets are delivered to the field of operations (Wiharta, et al., 2005, p. 36; Fischer, 2011). This framework should include a needs assessment capability that allows for changing needs in the disaster area. During the Indian Ocean Tsunami response a refined needs assessment carried out by French and Singaporean militaries determined the need for mobile clinics (Wiharta, et al., 2005). Originally, field hospitals were going to be established

to support the needs of those affected. A sustainable, flexible military response was able to account for the actual needs of those affected – even after initial assessments were carried out – flexible to the changing needs of a disaster.

Furthermore, it has been argued that military responses are not able to adequately link with relief and rehabilitation activities necessary in the aftermath of natural disasters (Wiharta, et al., 2005, p. 37). When a military leaves a disaster operation those in receipt of relief and rehabilitation assistance are not plugged in to the civilian aid organizations providing long-term disaster assistance. Here we can see that the assistance provided by military operations is in itself unsustainable because militaries tend to leave an operation before non-governmental response agencies. Hence, any assistance that was being provided will not necessarily be provided in the long term.

Thirdly, sometimes a military stays longer than it should. For example, NGOs operating in Haiti after the 2010 earthquake complained that foreign militaries involved in the response should not have engaged with long term engineering projects for the island nation (Wiharta, et al., 2005, p. 82). The good work that came out of military projects at the time should not be dismissed. However, there were complaints that militaries carried out an “illegitimate encroachment” into civilian affairs and cost more to engage than a local NGO would have cost (Wiharta, et al., 2005, p. 82).

The Oslo Guidelines specify that a military response to a natural disaster should be used as a last resort. This is a basic tenant of the Oslo Guidelines which states: “The use of civil protection assets should be needs driven, complementary to and coherent with humanitarian aid operations” (Multinational, 2007, p. 4). Hence there is a

consensus that a military response may be useful if it is properly coordinated. Staying on beyond need, though, becomes a drain on the response, extra work for the humanitarian community to manage and an unnecessary waste of resources. Once the humanitarian community or hopefully the state itself has established some level of normality, the military should leave so as to lower costs, remove the threat of mission creep, and to allow for civilian control of the disaster as soon as possible (as they will be in charge going forward).

3.3.5 Military Conclusion

In this lesson learned section, I have addressed the role of the military in natural disaster response. The use of military assets for natural disaster response, as in any emergency situation, is controversial. Evidence of the pros and cons associated with the use of military assets emerges from a cross-disaster analysis. Military troops can indeed be useful in a natural disaster response. However, there must be a specific way of integrating the military which adequately addresses why they are being used and what happens as a result of their presence in a natural disaster scenario. Hence, the lesson to be learned regarding the role of the military can be understood in two parts. First, it is likely that a military will be used in a natural disaster response because of their efficiency and ability to act quickly. Second, to avoid some of the trust issues involved with bringing a military in as a last resort response option, plans which integrate and establish clearly defined roles should be developed. This will serve to create relationships with government and civil society such that responses with sustainable impacts are carried out.

3.4 Civil Society

The third set of operational lessons learned to be discussed in this chapter has to do with the role of civil society in natural disaster emergency management. Civil society can contribute to a community's stability before, during and after a natural disaster and as such impacts policy development at all stages. In the context of operational lessons learned, civil society is important because it is formed by non-governmentally affiliated individuals and exists for the people who are affected by the disasters. The fact that members of civil society are also citizens should affect the development of policies for pre- and post-disaster planning. Indeed, the role of civil society must be recognized and better integrated into natural disaster response policy.

I consider the role of civil society in this chapter because it is an important component to natural disaster response in each country. I will, however, only discuss civil society briefly because the argument made in this thesis is for the development of a supranational plan for military intervention, not for enhancement of civil society.⁵⁵ I also include discussion of civil society in this thesis to show that whilst mechanisms for dealing with an unwilling/unable government exist they do not provide an adequate safety net for those affected. Indeed, by including discussion of civil society I recognize the broader view of natural disaster response into which I am suggesting the development/inclusion of international intervention possibilities. Suggestions that I should focus on policy development which reduces disaster

⁵⁵ NGOs from the international level respond to natural disasters with varying degrees of success. I therefore do not make the argument here for the further development of international non-military support. Any such development would either need to reinforce existing response mechanisms or enhance nongovernmental capability to respond. Suggestions on how best to support NGOs to do this are the subject of a different thesis.

losses and damages are understandable given my aim of saving more lives in the aftermath of a natural disaster. However, whilst I show that natural disaster planning requires improvement, I am not interested in improving existing methods of aid delivery in this thesis. Instead, I am suggesting that an alternative approach to delivering the goods associated with the human right to welfare should be developed. Particular to this section, an alternative means of aid provision may be needed when civil society is side lined or poorly integrated into natural disaster response.

In order to assess the role of civil society in natural disaster response, I will first explain what civil society is and its role in non-emergency scenarios. I will then discuss the role of civil society groups active in disasters and the case studies on Haiti, the Horn of Africa and the United States. Once again, case studies are used to provide real-world grounding for the theoretical issues discussed in this thesis. This discussion is important because it demonstrates how all mechanisms of natural disaster response may deteriorate in the aftermath of a sudden onset emergency. As I will later argue, it is appropriate to have a policy in place when humans are not receiving assistance from domestic sources.

Unlike the military, civil society is not a distinct and identifiable group within nation-states or the international community. Examples of groups which make up civil society include church groups, neighbourhood watch organizations, running clubs, school governors associations, and many others. Some argue that the term 'civil society' refers to "a political space where voluntary associations deliberately seek to shape the rules that govern one or the other aspect of social life" (Scholte, 2002, p. 283). It has also been defined as "the space of un-coerced human association and

also the set of relational networks – formed for the sake of family, faith, interest, and ideology – that fill this space” (Walzer, 1990). While not political in the common sense, civil society is a forum for negotiation and democratic process in our personal lives.

In this thesis, I take a broad understanding of civil society and see it as the most important aspect of human civilization. It exists in the form of family, friends and communities, regardless of whether a political or economic institution is in place. I do not believe civil society to exist as a separate pillar of society or what Sarnaik describes as an “ultimate third way” (2001). Instead I contend that civil society exists in all aspects of life: is the structure through which people come together to participate, with a shared purpose, beyond political or economic ties. It belongs neither to the public nor the private sector and is thus most visible. In those spaces left empty by politics and markets (National Audit Office, 2010).

In this thesis, I will focus on just one aspect of civil society, the role it plays in disaster response and post-disaster recovery. During a disaster, civil society should maintain the same key features as during ordinary circumstances. This is despite any difficulties posed by the natural disaster. That being said, in order to contribute to the flourishing of a society during and after a natural disaster, civil society has an even more difficult job fighting for the needs and rights of those affected by a disaster.

For example, in ordinary circumstances medical non-governmental organizations can organize training, wait for additional staff to become available and implement new procedures after testing them. However, during a natural disaster, the influx of

volunteers can be burdensome to disaster managers because, as Quarantelli notes, “it is outside their plans, systems, and above all, control” (as cited in (Shaw & Goda, 2004, p. 18). Disasters create a sense of urgency with the focus put on saving life and property which side-lines the role of civil society in natural disaster scenarios.

Additionally, official relief agencies recognize the contribution made by informal civil society bodies that spring up in response to specific disasters (Shilderman as cited in Shaw & Goda, 2004, p. 18). Hence pre-prepared policy which adequately integrates the role of civil society into disaster planning is preferred. When this preparedness is done well - as will be discussed first below - we see improved response. When plans to integrate non-governmental assistance providers are not prepared in advance and/or integrated into operations – which is discussed second – the response suffers.

Well prepared civil society does in fact provide a more robust response mechanism which will contribute to the reduction of disaster losses. Research into NGO-NGO relationships during the Indian Tsunami discovered long-standing, trusting relationships which enabled the NGOs to appropriately respond to the disaster (Kilby, 2007). When relationships are developed in advance there is an opportunity to work efficiently in the midst of a disaster. In Haiti, the organizations which were active in disaster response recognized the need to train and integrate volunteers into the response operations. There was a risk that the advice and support these volunteers provided would be incorrect, counter-productive and rejected by the affected people if they were not culturally and disaster specific.

NGOs thus recognized that civil society engagement in disaster response requires the trust of those you intend to aid and they prepared for that need ahead of time. Trust-based relationships thus encouraged more robust civil society response operations which improved the quality of assistance to those affected. Indeed research suggests that strong links, and therefore trust-based relationships between communities and NGOs, usually results in successful disaster recovery (Kilby, 2007).

When non-governmental organizations are not prepared in advance and/or integrated into operations there is a poorer response. When local needs are not considered, citizens are essentially excluded and the response to the disaster will be less effective. For example, the fact that response organization meetings were held in a non-Haitian language meant that locals were literally unable to speak about their concerns. This made them less able to trust that the government actually had their best interests at heart. This example provides evidence that civil society was not prepared to adequately respond to the needs of affected Haitians and that there was a disconnect between the needs of those affected and those delivering aid.

Similarly, Somalians were not involved in the decisions made by the government officials regarding their own well-being. Somalians were not consulted on the decision to expel foreign civil society groups from the country either. Initially Somalians were engaging with the nongovernmental aid providers and mostly surviving the drought. The trust Somalians had in international NGO response organizations to deliver aid was unfortunately then ignored and national interests were prioritized. When the voice of average Somalians was ignored, concerns were not acted upon and the government was anything but 'responsive'. Here, the trust individuals had toward NGOs allowed many to survive the drought whereas the

government's disengagement from the work of the international NGOs resulted in further humanitarian emergencies.

The Horn of Africa drought provides a further example of how the lack of relationships with civil society in general only hinders disaster response. In Ethiopia, for example:

Ethiopian Government coordination involved scepticism about regional estimates and mistrust of international NGOs. The zones' carefully calculated assessments of need and numbers are routinely trimmed down by federal civil servants who assume local exaggeration. This risks creating bargaining culture in needs assessment. If the Government is suspicious of information coming from the zones, it is equally wary of giving information to NGOs. The Government has access to large amounts of good-quality data from around the country, but it instinctively guards rather than disseminates this data. This breeds a reciprocal reluctance in information sharing from NGOs to Government (Slim, 2012, p. 14).

A government's reluctance to share information with nongovernmental aid providers (and vice versa) slowed the disaster response because multiple sets of calculations had to be carried out. Reluctance implies a lack of relationship building and trust before a natural disaster and a slow response does nothing to serve the population affected. If instead, the government bodies and the NGOs worked together more aid would have been provided more quickly as each organization would have had additional time to deliver more aid to the affected individuals. Indeed, in this example, distrust between civil society and government bodies hindered disaster response.

In sum, civil society is a crucial part of life at the national and global levels. Indeed, it forms the third pillar of society. As in normal circumstances, civil society in disaster

scenarios has the potential to both help and hinder humans with which it interacts. An adequately prepared civil society will form part of a broader response mechanism at the national and international level. That said, if expelled or disengaged for any reason, civil society may still not be enough to adequately provide for the needs of those affected in the aftermath of a natural disaster.

3.5 Conclusion

In this chapter, I have outlined three thematic lessons learned from very different natural disaster scenarios. First, I discussed the need for strong leadership in the aftermath of a natural disaster. With absent or ineffective leaders, the normal people suffer the most. This is unacceptable. Second, I explained the pros and cons of using military force for response efforts. Using a military to deliver life-saving or life sustaining assistance may be a good option based on a military's capacity to deliver timely and operationally sound assistance. However, as the case studies discussed demonstrated, there are issues surrounding whether a military response is sustainable or even appropriate. Finally, I discussed why civil society must be integrated into disaster response. To have a strong civil society trust must be bolstered. With trusting relationships between members of civil society, citizens and the government society can flourish and disaster resilience improves.

Having comparatively analysed the lessons learned documents I gathered evidence that there are distinct gaps in effective aid provision at the national government level. These are deeply rooted issues that are likely to persist regardless of advancements in technology or improvements in disaster operations. Hence national level preparedness alone will not address these issues: we cannot always prevent issues

of leadership and appropriate integration of (domestic or international) military and civil society support. These issues will persist because humans in charge always run the risk of being inadequate or corrupt. Analysis in this chapter shows that there is an opportunity to prepare for situations in which the international community may need to come to the assistance of those affected by a natural disaster when a national government is unable or unwilling to do so.

So, I do not outline in this Chapter how national governments can adapt their response operations to account for these lessons. That is the topic of a different thesis. Instead, my analysis drew out the commonalities across countries. In doing so I showed that there are gaps in response and that humans suffer when inadequate governments or those resistant to fulfilling their duties are the primary and only duty bearer. In forthcoming chapters of this thesis I suggest that we account for the operational lessons identified in this chapter by creating natural disaster response procedures which will act as a fall-back should national level response fail. And so, in the following chapters I shift my view of these operational lessons extracted from a national response to an international response. For this, I will consider what role the international community has in natural disaster response when a national government fails its duties (for whatever reason) and these issues of leadership, military participation and civil society integration hang in a vacuum created by the hazard. Someone must be prepared to fill the gaps and support the humans affected.

Therefore in the next chapter I explain why leaving humans to suffer in the aftermath of a natural disaster is unethical. This leads me to concentrate on implementation of the duties associated with the human right to welfare. By concentrating on the

human right to welfare we can bridge the gap between what realistically happens in a natural disaster (identified in this chapter) and what is ethically required from those in a position to respond. Ultimately, I will argue why it is both permissible and required to intervene for natural disaster response in some cases and why this will enable us to make up for human shortcomings associated with leadership, the military and civil society discussed in this chapter.

CHAPTER 4: THE RIGHT TO WELFARE AS A HUMAN RIGHT

The central ethical concept of this chapter will be that of rights. There are three central components to any right: the right-holder, the addressee and the scope of the right (Nickel, 2013). So, for example, a member of the Occupy Movement, as a right-holder, had a political right to protest outside St Paul's Cathedral and Parliament in London. The British Government, despite their frustration, were the addressee and thus had the duty to ensure that the Occupy member's right to protest was upheld. The scope of this right is free speech in protest of what the movement saw as institutionalised economic and social wrongs.

In this thesis I am only concerned with one family of human rights: welfare rights (Nickel, 2013, p. 181). The scope of this family of rights, as I will argue in this chapter, is a minimal level of food, shelter, water, security and healthcare. This should be provided by the state as the addressee of the right. I will argue in later chapters that a natural disaster and the disruption it causes to a society may prevent the delivery of the goods included in what constitutes a basic level of welfare. However, the right to a basic minimum of welfare during a natural disaster is a human right and thus must be guaranteed by the addressees of the relevant human rights no matter what the circumstances. Hence, when a government is unable or unwilling to act as the addressee of the right to welfare, some other duty holder must step in, or so I will argue in later chapters.

In setting up this argument, first, in 4.1, I will subject the concept of human rights to a thorough conceptual analysis including an explanation of how human rights differ from other rights. In 4.2, I will focus on the human right to welfare and specifically the

scope of this right. In Section 4.3, I will explore the main ways in which the human right to welfare can be grounded: in the badness of pain and suffering, our interdependence and our joint humanity. I will argue that the grounding based on a joint humanity is most appropriate because it consistently includes all right holders without exception. In Section 4.4 I will address possible criticisms of using human rights as the justification for developing international policy as I suggest.

4.1 Human Rights in General

As a matter of context, there are various types of rights - political, civil, economic and human rights – and there are commonalities amongst these categories of rights. Specifically, all rights have claimants, duty-bearers and a scope of the right. Access to education, for example, is a civic right. Here, citizens are the claimants. The state as duty-bearer has an obligation to provide the scope of the right, here access to education. States may also ensure a minimum wage and safe working conditions to citizens because of their duties associated with economic rights (OHCHR, 2017).

Furthermore, many of the previous types of rights can be understood either as moral rights or as legal rights. Many civil, political and social rights are enshrined in national laws so that they can be enforced at the national level. Some of these rights are also accounted for in international doctrine and agreements for additional assurance of legal implementation such as the right to be free from torture, the right to take part in elections, etc. As a consequence, the addressees of these legal rights have legal obligations as set out by laws of a particular jurisdiction. In contrast, for my purposes in this thesis, I am interested in moral rights. Many of the previous rights can be understood also as moral rights, but moral rights also include more

universal rights as the right to liberty or autonomy. What distinguishes moral rights from legal rights is that the addressees of these rights have, instead of legal obligations, moral obligations corresponding to the relevant right as dictated by morality. One reason why I am interested in moral rights is that, whilst laws and hence legal rights can change, the moral facet of rights remains constant.

In this thesis, I am only concerned with human rights as a particular kind of moral rights. (I am not interested in the legal component of human rights.) In this section I will thus first explain the three features which make human rights distinct from other rights and which are central to understanding and applying human rights in this thesis. Human rights are: universal, set minimum standards and are 'high priority' norms (Nickel, 2013; Caney, 2010). Each will be critically investigated in turn. In the second part of this Section I will explain why I reject the other features of human rights as distinguishing them from other rights. Nickel sets out a list of eight features, which different scholars have argued to be distinguishing features of human rights (Nickel, 2013). I maintain that only the three I have set out in this section are relevant.

First, unlike other rights, human rights are universal. Human rights extend to *every human person* regardless of gender, race, or religion at all times.⁵⁶ Likewise, national political borders do not matter as to whether or not a country's inhabitants have human rights. Each human has a claim to the scope of the right in question. Take, for example, my status here in the United Kingdom. As an American citizen, I do not have all political rights available to citizens of this country (rights like voting in local

⁵⁶ Additionally, human rights fit with a cosmopolitan ethic and subsequently bestow on all humans equal privileges and rights. This universality is relevant to the establishment of policy at the global level which I argue for later in this thesis.

and national elections or standing for office). However, my human rights are exactly the same as British citizens. Accordingly, I have a claim to the scope of a given human right, say welfare, no matter the country I am living in or whether I have political rights as a woman, or if I belong to the minority religion of that country. Human rights are in this sense universal.

Consider a further example to explain the universality of human rights. Married couples in the United Kingdom receive a reduction in the taxes they pay. This is a right granted by a national government and guaranteed in certain laws and as such is a civic and/or political, legal right. All humans would have to have access to that tax break in order for it to count as a universal right. This tax break is not granted to all humans, though, and hence is not universal. As it is not universally applicable, it is not a human right.⁵⁷

Second, unlike many other rights, human rights can also be understood to set a minimum global standard to which each rights-holder is entitled. Human rights do not guarantee me the 'right' to a lavish lifestyle or the 'right' to a home well above my economic means. Likewise, it would not be plausible to think that I have a human right to gas heating specifically. One reason for this can be argued to be that it is impractical. From a moral perspective human rights establish the foundation upon which all other types of rights can be built. If they guaranteed more than minimal standards they would be too prescriptive to be universal. I can have a decent life

⁵⁷ Whilst there is a general consensus that human rights are universal there are some who suggest that they are not. Beitz argues that human rights cannot be understood as timeless. He argues that as science and technology change our duties to humans have also changed. For this reason we can expect our obligations to change in the future and hence human rights cannot be understood as universal (Beitz, 2003, pp. 43-44). However, in line with the argument made above, human rights are normative. They represent the ideal of human society. Hence whilst our technology and science may change it does not mean that our respect for humans will or should change.

without gas heating specifically as long as I am safe and healthy within my home. (Other sources of warmth may be sufficient.) Whilst gas heating may be preferable in some societies it is not a basic, necessary good of the type which human rights are often thought to protect.⁵⁸

Instead, many have argued that human rights underpin efforts to support humans develop minimally decent lives (Nussbaum, 2007a).⁵⁹ We each have the right not to be killed and to be given fair treatment under the law with regard to our gender, race or religion. By setting minimum standards human rights set a standard for humans to be treated with a basic level of dignity and humanity (see Section 6.3).

As a consequence, the addressees of human rights are duty-bound to ensure that a minimum threshold of necessary goods is available for a person to exercise their human rights. This means that duty-bearers, for example, are not allowed to give humans in their charge any less than a standard minimum. In fact, governments are encouraged to offer citizens more in the way of civic rights and many do through political and economic policies. Human rights, though, are assurances that humans will have a minimally decent life in line with what is physically and compassionately necessary for any human (Pogge, 2008, p. 55).

⁵⁸ Some rights theorists like Henry Shue argue that the role of human rights to set minimal standards is not about encouraging ideals. Instead minimal standards help to ensure that human life does not sink below a minimal standard necessary for survival (1980). By dictating only minimal standards national governments can maintain and integrate human rights into national laws with relative ease; this means that national governments are free to administer and implement political and social laws which fits the needs of the country without conflicting with human rights (Nickel, 2017)

⁵⁹ Beitz suggests that a 'minimal standard' of human rights discourse is not minimal standards in the way one would expect. There are so many aspects of rights (protections against the state, welfare, the economy, etc.) that they cannot really be said to represent any minimum (Beitz, 2001, p. 271).

Third, human rights are the highest moral concern for society or, as Nickel describes them, 'high priority norms' (2013).⁶⁰ There are some political or economic rights that national governments have an interest in providing to their citizens. A well-functioning economy, for example, is something that national governments have a political and economic interest in providing. Greater investment in business means more people are trained in the skills necessary for business and the more robust the economy the higher the quality of life of the citizenry. However, human rights are more important than business investment. Consider that, one cannot enjoy the outcomes of business investment if one has not been granted the liberty to do so. Indeed, human rights have the highest priority for without them other political and economic rights cannot be delivered (Shue, 1980).

Consider once again the married tax credit example. The government will still adhere to human rights norms and deliver the goods associated with human rights. If the burden of paying the credit gets too burdensome, though, the government will not start killing recipients in order to reduce the amount paid out. One's human right to life is still of the highest priority (Nickel, 2013, p. 24). Hence distribution of a tax credit will not get in the way of this nor will the tax credit be prioritized over human rights.⁶¹

⁶⁰ See also (Cranston, 1967).

⁶¹ Additionally, as high priority norms, human rights are also the standard bearer against which the international community evaluates the political legitimacy of different states. We do not decide that a state is legitimate based on whether it gives tax credits (or similar state-based rights). We do judge their legitimacy on whether a state kills its own people (also see Section 8.1). Robinson explains: "since the state exists primarily as a set of institutions, procedures, and practices to protect the basic rights of citizens – which can, of course, be interpreted in a variety of ways, at least within certain limits – it is only legitimate to the extent that it carries out this function" (2007, p. 87). When a state does not carry out this function of protecting the basic rights of citizens it is not legitimate. Hence, human rights are of the highest priority for states as duty bearer as well as for the individuals making claims. (The moral legitimacy of a state and why it is important for our understanding of sovereignty and human rights will be discussed in detail in Section 8.1.)

I argue for universality, minimal standards and high priority norms as the main features of human rights because they are applicable across all human rights and thus appropriately make sense of rights. The other features of rights – namely that human rights are not dependent on the procedures of a national government, that they provide global standards against which national governments can be judged, that they are specific and that they establish political norms – are important but not relevant within the context of this thesis.

For example, if we say human rights are ‘specific’ we are limiting the situations and cases in which they can be applied. Consider that human rights imply that all humans are entitled to dignity. There is general agreement as to how we treat a human with dignity (torture is bad, disrespecting a corpse is also wrong, etc.). However, if we specified the exact parameters of a dignified life we would not be able to make allowances for autonomous choices made over the course of one’s life. If we specified what dignity must entail we would either not account for everyone’s dignified life and/or not be able to treat everyone with dignity. Disposing of remains, for instance, varies by country and culture and each is seen as dignified within that culture. Requiring that we set the parameters of a dignified treatment after death would be too specific.

Likewise, another feature of human rights in Nickel’s list is that the state is the primary addressee (Nickel, 2013). However, the primary addressee of some political and civic rights is likewise the state. So, for example, the US Constitution grants citizens the right to bear arms. The national government thus ensures that any individual can claim their right to access a gun or firearm. Hence if a political right

has the same feature as a human right, that feature is not specific to human rights and thus does not help us understand how human rights are unique. For reasons like this, I have chosen the three features of human rights which help us distinguish human rights as a unique type of right.

4.2 A Human Right to Welfare

I move now to discussion of a particular human right. In this thesis, I am interested in the family of welfare rights and the recognition of associated duties in natural disaster response. So, in this section I will first explain welfare more broadly. Second, I will show how the human right to welfare matches the features of a human right discussed in the previous section.

4.2.1 An Explanation of Welfare

We can start from the idea that welfare, or well-being, is an evaluation of how good (or well) a person's state of being is as opposed to the 'good' that they provide (Sen, 1993, p. 36). If a person's life goes well and she is in a good state, she has a high level of welfare independently of how useful she is for the society. Welfare as it is used in the human rights literature is thus an internal state of being. It is therefore also not to be confused with the 'welfare' provided by society for an individual in the way of housing or social benefits.

There are different ways of understanding welfare which could all be argued to help to measure how good one's life is going by one's own standards. Traditionally there are three theories of well-being: hedonism, desire satisfaction and objective list

theories. In what follows I will explain each. For hedonism and desire satisfaction I will also explain why these are inadequate ways of making sense of welfare, particularly as it pertains to emergency situations.

I begin with hedonism. Hedonism is understood as the balance of pleasure over pain in your life (Crisp, 2016). If one's life contains a lot different pleasures and very few pains, then, according to hedonism one's life is going well and thus one has a high level of welfare. In contrast, if one's life contains mainly painful experiences and suffering, then on this view one has a low level of welfare.

There is a very simple objection to pleasure being the core of well-being in this way especially in the natural disaster context. Consider hedonistic welfare in terms of disaster response. Responders want to improve the quality of life of those they are rescuing. If hedonism were the correct account of welfare relevant for the human right to welfare, then instead of providing people with food, drink and shelter, the responders could simply hand out pleasure pills. After all, this too would provide the victims with the same increase in their welfare. Yet, the removal of suffering, though, particularly in this situation, only results in a different state of mind whereas the person's physical condition is still unchanged – they may still be homeless, hungry or remain stuck under rubble (Sen, 1985, pp. 188-189). This must be an implausible consequence of the theory. Surely the right thing to say is that, if the responders care about the victim's welfare, they ought to improve the victims' lives by providing them with food, drink, shelter and other constituents of their welfare. This is why it is not plausible to think that the relevant notion of welfare here consists of mere pleasure.

Furthermore, if welfare in the right to welfare were based on welfare, then we would have a duty to provide others with those goods which they will find pleasurable. However, this hedonistic understanding of welfare in the human right to welfare also does not fit with the requirement that human rights are to be universally applicable. Those things that people find pleasurable would form an inexhaustible list and not everyone would want/need the same things. If everyone were to claim different goods for their welfare, then there would not be a universal human right to welfare as the scope of the right would be different for each person. Hedonism is thus an inappropriate way of understanding welfare.

The second theory of well-being is desire-satisfaction. According to desire-satisfaction theory, something improves overall wellbeing if it satisfies one's desires (Hooker, 2000, p. 39). On this view, the more a person's desires, plans, intentions and so on are satisfied, the higher that person's level of welfare is. And, likewise, the more her desires and plans are frustrated, the less well that person's life is going. More specifically, many defenders of this view argue that it is the satisfaction of intrinsic desires that make our lives will go well (Heathwood, 2006). Intrinsic desires are desires for those things that we desire for their own sake. So, we do not desire money for its own sake; we only desire it because it enables us to get those things we desire. Hence desire satisfaction can be said to come from obtaining those things which satisfy these desires.

However, a desire-satisfaction theory of well-being fails because not all the things we desire intrinsically can be good or right for us (Fletcher, 2013; Hooker, 2000, p. 39). For example, I may well desire to have fifty children. I have an intrinsic desire to be a mother and give birth multiple times and to share my life with as many children as

possible. This is because, as Griffin explains, we cannot exclude immoral or irrational desires from those that should be satisfied in order for a person to achieve well-being (1988/2003, p. 24). Accordingly, this irrational desire would need to be satisfied in order for me to have a high level of welfare on this view. Yet, surely this is highly implausible. It seems clearly true that the satisfaction of irrational desires, such as the satisfaction of the previous desire, cannot make a person's life go better.

A second problem with desire satisfaction as a foundation of welfare is found in the literature concerning adaptive preferences (Nussbaum, 1997; Moss, 2013). If someone is financially poor and uneducated, that person oftentimes ends up desiring less from the world. As a consequence, fulfilling that person's desires becomes much easier and requires fewer goods and services. Consider adaptive preferences in the following example: Person A is financially poor, lives in a house that is functional but that could do with improvements, and has just enough money enough to feed her family. She, however, considers herself to have everything she really desires in life. In contrast, Person B is wealthy but desires a new car and the latest television and gaming system that they cannot afford just now. Person B feels the absence of these goods and hence does not consider her desires satisfied. She would thus have a low-level of well-being according to the desire-satisfaction theory.

If we care about other people's welfare, desire satisfaction theory would in this situation require that we provide for the desires of Person B. Given that she has a lower level of well-being, we have a requirement to provide for her needs over Person A's. This would, in essence, penalize Person A for having adapted her preference for things which they could not obtain (Van Parijs, 2004). However this is implausible: no one would believe that Person B is leading a poor life. Adaptive

preferences as an objection to desire-satisfaction theory helps to demonstrate that desire-satisfaction theory will not be objective in whom and how rights are distributed.

The third theory of well-being is that of an objective-list. As Rice explains, on this view, a person has a high level of welfare when she has a sufficient amount of certain objective goods (2013). Furthermore, on this view, it doesn't matter whether the person enjoys having those goods or wants to have them in her life. Those basic goods thus represent things that would make each individual person's life better. Hence these basic goods are universal and would be the same across cultures and therefore can be said to be an 'objective' or neutral way of determining welfare.⁶² Different goods are included on 'objective lists' depending on which list is used: loving relationships, knowledge, autonomy, friendship and achievement are, for example, often included on the list (Rice, 2013; Hooker, 2000).⁶³

So how should we determine which items should be on the list? Many people have thought that the capabilities approach is the most plausible answer to this question. The 'capabilities approach', as an objective-list view, has often also been used as a guiding principle when drafting international development policy. Items on this objective-list include: life; bodily health; bodily integrity; senses, imagination and thought; emotions; practical reason; affiliation; other species; play; control over one's

⁶² Martha Nussbaum explains that a theory of human rights (among other things) provides us with a common language with which to make cross-cultural objectives and a "set of terms with which to criticize abuses that otherwise might lurk nameless in the background" (Nussbaum, 1999, p. 229).

⁶³ Whilst objective lists often combine elements of desire-satisfaction and hedonism (in that some items on an objective list do bring us pleasure and fulfil our desires) it does not solely concern things that fulfil desires or are pleasurable (Crisp, 2016; Fletcher, 2013). Fletcher further discusses that hedonism may be better understood as a type of objective-list (2013). For the purpose of this thesis I will not engage with his discussion. Instead, I will focus on the traditional distinction between the three theories of well-being.

environment (Nussbaum, 2011; Nussbaum, 2001)The listed items are within the capabilities approach determined to be those things necessary for a person to carry out normal functioning, that is, for doing the kind of things that are typical activities for human beings generally.

When we consider how to understand welfare in the human right to welfare, I believe that we should focus on the most basic of items to be guaranteed in an emergency situation. These goods also belong to any plausible account of what the most basic welfare of human beings consist as it is difficult to see how without them one could live a decent human life. Thus, they presumably belong to all objective lists concerning human welfare. I am not suggesting that these items guarantee the flourishing life of an individual. Instead, these are the objectively necessary goods for one to be able to survive and are necessary for health. After these items have been obtained, a person can build on their capabilities.

There is one major criticism against object-list theories of rights (such as the capabilities approach). Critics sometimes suggest that an objective-list theory is paternalistic (or elitist) in that it sets out what is good for someone (Crisp, 2016). This criticism aligns with the suggestion that human rights, and intervention in support of human rights, are western inventions imposed on other countries. I will address this related criticism in detail in Section 7.3.1. For now it is sufficient to explain that autonomy is usually included in an objective list of goods which enable the right bearer to obtain welfare (Hooker, 2000). Autonomous choice about how one lives one's life will at least be a balance against paternalistic intentions of those providing the goods associated with the right.

And so, the objective-list theory of well-being allows for universal application and the setting of minimum standards of a specific set of goods/services. I thus will assume the objective-list approach to welfare when discussing the human right to welfare.

4.2.2 The Right to Welfare is a Human Right

In this section I will explain what the human right to welfare would be like if there were such a right. I will introduce how this right would need to be universal, provide a minimum standard, and be a high priority. Then, in the rest of this chapter I will argue that there is such a right.

First, as a human right, the human right to welfare would need to have the relevant component parts: the right-holder, an addressee and a scope. Because the right in question is a human right, here every human being would be a right-holder. We all would have a legitimate claim to everything that falls under the scope of the right. As a consequence, the state would need to enforce and ensure our right to basic welfare (basic levels of food, water, shelter and medical care). These goods are needed by all humans to survive. These are universally necessary goods and are not contingent on what a national government policy dictates. My church group lacks the relevant capacity to ensure that I have basic goods, even if they try to support me with food from a food bank. Ultimately, it is my government whose role it is to ensure the right. In this way, the state would in this case be the primary duty-bearer.⁶⁴

⁶⁴ The international community has second-order responsibilities because they too can ensure certain rights but should wait for the state to act first (Caney, 2014, p. 134; Euro-Atlantic Partnership Council, 1998; IFRC, 2016, p. 165).

I move now to discussing the components of the human right to welfare which would make it distinctly a human right. First, the human right to welfare would be a right to a *basic minimum* of welfare. As just explained, included in this basic minimum are a basic level of food, water, shelter, and medical attention necessary for survival (Griffin, 2008, p. 90).⁶⁵ Some may question how much of these basic goods are necessary for fulfilment of the right. For the purpose of disaster response it is only necessary to argue for a *basic minimum* of welfare rights which includes food, shelter, essential medical attention and basic levels of security (Shue, 1980, p. 19). I will not attempt to suggest actual amounts here. Instead, the goods associated with the human right to welfare must be provided such that the basic needs of the people in question are met (and they survive in the aftermath of the disaster).

The goods associated with the human right to welfare as described herein allow for the realization of other rights. So, the human right to basic welfare need not include education, comprehensive healthcare and long term support. However, an education or social interaction which would enable a person to achieve things in life cannot be enjoyed if individuals are suffering and cannot take advantage of those rights (Shue, 1980, pp. 19-20). Thus in line with Henry Shue's view, the human right to welfare, if there were such a right, would be of the *highest priority* because other rights, say to education, are not fundamental to continued human existence. Food, on the other

⁶⁵ Further, by its very nature the human right to welfare establishes a basic minimum of those goods necessary for survival. According to Maslow's hierarchy of needs any human need "rests on the prior satisfaction of another pre-potent need" (Maslow, 1943). The physiological or 'basic' needs refer to the body's drive to survive and thrive through the establishment of homeostasis. These basic needs are the most important and most fundamental to human existence such that they take priority over all other needs and desires including "love and esteem" (Maslow, 1943). Once the basic needs of food, water and shelter are satisfied, one can attempt to satisfy other needs and desires (see (Cross, 2001)).

hand, is required. Accordingly, food, shelter, medical attention and security are of the highest moral concern for society (Nickel, 2013).

As the highest moral concern, the international community has moral justification for putting pressure on a state to act on its duty.⁶⁶ Take North Korea as an example of this point. The international community has a moral justification for pressurizing the North Korean regime for their non-adherence to human rights norms because human right to basic food, water, shelter is of more importance than government systems. Once the people are secure, pressure can be brought to bear regarding the government's dictatorial regime. The welfare of North Koreans is indeed a high priority and must be secured before any other political or economic rights are possible.

Finally, the human right to welfare understood as a guarantee of a minimum level of goods necessary for survival could be argued to be a universal standard. The amount of food, water, etc that a person requires to continue living does not change based on a person's nationality, race, sexual orientation, etc. In this way a basic minimum applies to all humans, everywhere, equally.

To summarize, the central features of human rights would also characterise the human right to welfare if there is such a right. If the right to welfare is a human right it must be a right, it must be universally applicable to all humans, it must set a

⁶⁶ Robinson provides a good explanation of what it takes for a country to be seen as 'legitimate'. He argues that a state may still be legitimate even if the entire citizenry does not support it; a majority of the citizens should not be opposed to its continuing to govern. Robinson also argues that a legitimate state must protect the basic rights of its citizens and refrain from violating the rights of those in other states. When these functions are not upheld, we can discuss intervention as possible. (Robinson, 2007, p. 87).

minimum standard and it must be a high priority norm.⁶⁷ In the next section, I outline three ways in which the human right to welfare can be justified. This lays the groundwork for argument made in later chapters that interventions are in some cases ethically required because of the human right to welfare.

4.3 Grounding the Human Right to Welfare

I will now discuss different ways to ground the human right to welfare. This is important for my argument made later that the duties associated with the human right to welfare must be acted upon in natural disaster situations. Three kinds of justifications for this right have been offered. These arguments have been based on (i) the moral significance of suffering, (ii) the role of human interaction, and (iii) the importance of respecting humanity. I will discuss each of these arguments below in turn. I will argue that the first two justifications for the human right to welfare fail but the third does not. Towards the end of this section and especially in the next chapters, I will consider some specific consequences the resulting understanding of the human right to welfare has for how the international community should react to natural disasters.

4.3.1 The badness of pain and suffering

First, the universal human right to welfare could be argued to exist for the simple reason that pain and suffering are bad. All members of a moral community (including

⁶⁷ Further, and considering the existence of political and logistical hurdles at the international level as well as at the state level, I am not arguing here that the civic right to welfare does not exist. Instead, the human right to welfare is the focus of this section because it offers additional support to those individuals affected by a natural disaster when a national government is unable or unwilling to provide assistance. Far from fool proof, applying the human right to welfare during natural disaster scenarios offers a possibility of egalitarian assistance regardless of national boundaries or national government capacity.

all humans, all 'marginal cases', and all nonhuman animals) can suffer and feel pain and because of this it could be claimed that they all deserve equal moral consideration (Shafer-Landau, 2012, p. 131; Singer, 1972).⁶⁸ For example, it is broadly accepted that, if someone is trapped in a burning building, all reasonable efforts should be made to save her. Likewise, the family pet ought to be carried out of that building because it is generally accepted that burning causes pain even for animals and pain is bad. Simply, then, we usually think that we should make every effort to prevent pain and suffering.

Singer argues more specifically that all of us are morally required to prevent pain and suffering if it is something we are able to do and the prevention will not cause greater suffering to ourselves or others (1972, p. 232). This would mean that every suffering person is entitled to (and thus can make a claim for) help and we are all required (have a duty) to help suffering persons. In Singer's now famous example, if a child is drowning as you pass a pond, you are morally required to assist that child, even if it means getting your clothes dirty (Singer, 1972). This is because getting muddy is nowhere near as bad as a child's death. By saving the child we are maximizing welfare. If we extend this example to a natural disaster, saving the life of a drowning victim, when responders are qualified to do so, is obviously expected. This too will

⁶⁸ Singer and other utilitarians argue that all members of the moral community deserve not to suffer or feel pain when it can be prevented. I limit my argument to humans for purpose of space and so that I can justify that a human right to welfare is the moral requirement for intervention during natural disasters.

reduce the pain of the individual affected and by extension the welfare of the community.⁶⁹

Usually, if a person is faced with two options and one would result in more pain than the other we can reasonably expect that person to choose the least painful option. If pain and suffering are bad it is reasonable to expect people to minimize suffering where possible. Grounding human rights in the badness of pain and suffering view is, however, unsuitable as I will now explain.

If we try to ground the human right to welfare on badness of pain, then it would be natural to think that there should be as little pain and suffering as possible. Hence this grounding of the human right seems to lead to utilitarian welfare maximization. The problem with grounding the human right to welfare in this way is that we would have to let certain people suffer in order to minimize suffering overall. Consider the recent protests against the Dakota Access Pipeline across the northern border of the United States (Aisch & Lai, KKR, 2017). The US Government's argument for a pipeline in the area is that millions of Americans will benefit from the oil transported through it. Any risks associated with oil transportation are acceptable because of the benefit the oil will provide. This is in spite of the pain and suffering caused to members of the Sioux Tribe living on the Standing Rock Reservation.

⁶⁹ Singer also famously argued that distance does not authorize us to ignore pain and suffering (Singer, 1972, p. 232). There is, of course, a practical limitation to who is obligated to save individuals from a burning building: distance prohibits timely response from would-be international responders. Normal house fires, for example, will burn out (relatively) quickly and so they will not continue burning for long enough for foreign firefighters to mobilize. Therefore, distance may not be a moral limitation but it may be a practical limitation. Urban Search & Rescue Teams, for example, can rescue individuals for up to 48 hours after a building collapse. If they are requested and able to get to the building collapse in time, they will endeavour to do so. This is a practical constraint only. Thus, if the human right to welfare is grounded in our recognition of the badness of pain and suffering, there is a moral imperative to respond when this is practical and contributes to ending pain and suffering.

However, this does not fit with human rights theory. Human rights are universal and must therefore protect everyone's welfare equally. Likewise, because human rights are universal we cannot sacrifice one person's well-being for the sake of others. Thus the alleviation of pain and suffering grounding does not provide the individual with protection; it puts overall society's well-being above the individual. Human rights dictate that the individual human is the claimant of any human right and thus any duties must provide the goods associated with the right to the individual.

So, whilst the badness of pain and suffering is a reason to supply goods associated with the human right to welfare, it is not the most appropriate grounding for the human right to welfare. This grounding does not help to ensure that goods will be distributed equally and universally to all humans as required by the universality of human rights. Therefore, it can be rejected as an appropriate grounding of the human right to welfare.

4.3.2 Interaction-based Human Right to Welfare

The second way to ground the human right to welfare is to argue that the human right to welfare is justified by our interconnectedness. In this section, I will start with a description of a frontier community and explain how 'special' relationships exist in such communities. From here I will argue that there is no moral reason to assume special relationships stop at national borders. Hence 'relevant interactions' need not stop at national borders either. Thus in this section I will first discuss what is meant by 'relevant interactions' and what duties are created by having those relationships. I will then argue that by taking 'relevant interactions' at its core, the interdependence-

based grounding, however, is an inappropriate way to ground the human right to welfare.

To begin, frontier communities are a simple example of people who depend on each other and have a 'mutual concern' for one another. With 'mutual concern' it can be argued that "everyone benefits from being in the community – mutual protection, some division of labour, social life, and so on" (Griffin, 2008, p. 178). Each inhabitant relies on the other inhabitants for their survival: a blacksmith is equally important to a farmer or a cattle rancher. Each person plays a part and as a consequence of their contribution they have a right to assistance from the community to which they have contributed. This simple example can thus be used to illustrate the idea that certain kinds of interaction within communities can be argued to create rights to assistance for the members of those communities.

It can then be argued, similarly, that that same kind of right-creating cooperation and reciprocity exist between citizens within national boundaries in a state. Such cooperation can thus be argued to create a 'special' national relationship as a consequence of which, within a sovereign state, citizens have various political rights and also rights to assistance. Based on the interaction between them, citizens can therefore be argued to be entitled to certain things and we can say that they have rights within their country.

Even if we accept that intra-state relationships are special, there is no moral reason to assume that we do not *also* have the relevant kind of special relationships of interaction with those outside the political borders within which we live. For example, I have strong familial ties to the United States. However, I have studied abroad and

now have relationships with people living in a different country. I would be as worried about their safety in a natural disaster as I would be about members of my family. Special bonds with my family and co-nationals do not prohibit me from having the relevant relationships with friends outside my country of origin. But, these relationships do suggest that we can be interconnected with those outside our national boundaries in a way that similarly creates duties and rights for all of us.

It follows, then, that if we think that reciprocal interaction within a state creates a moral entitlement for assistance from other people within the state, then it is appropriate to think that interaction universally provides the same kind of entitlements universally. This would mean that interaction would, in fact, create a universal human right to welfare. In this tradition, Darrel Moellendorf has argued that we have duties of justice to all of those with whom we interact (2002, p. 31).

In a discussion of human rights grounded in interdependence, it is worth discussing the support provided by cosmopolitan theory. (See Section 1.3.3 for a full discussion of Cosmopolitanism.) Institutional cosmopolitanism is based on this interdependence-based view of human rights (see (Pogge, 2011; Caney, 2010). These cosmopolitanists claim that there are “duties of justice to some, but not all persons” as long as that duty is delivered to *all* “of the persons with whom we are associated” (Moellendorf, 2002, p. 34).⁷⁰ This is not to say that certain people do not

⁷⁰ Institutional cosmopolitanism is the view that all humans are *co-citizens* of the world and thus share political and judicial structures. Accordingly, and in-line with an interdependence-based view of human rights, humans linked as co-citizens belong to a political community thus engaging them in a type of social contract (Ronzoni, 2013). Simon Caney explains that an interdependence-based cosmopolitanism would require distributive justice to all members of the global institutional structure. Those outside the structures, however, could only claim rights to humanitarian assistance, not to justice more broadly (2009).

On the social contract specifically, the social contract does not actually imply/offer any moral right or duty. It is a political agreement only. Hence, claims on one’s state are only possible within the

have a right to welfare. Moellendorf does not suggest that certain humans have rights to welfare and others do not. He only suggests that an individual or official's duty of justice does not extend further than to those with whom we have some sort of associational relationship. Indeed, persons only have moral duties to one another if they are relationally or institutionally linked (Moellendorf, 2002, pp. 32-33). By extension, if we interact with an individual in a relevant way we are morally required to deliver the goods associated with the human right to welfare. Accordingly, grounding the human right to welfare in interdependence excludes, in theory, those with whom we do not share a connection from receiving basic welfare goods.⁷¹

I have three criticisms of this grounding of human rights: (i) the issue of isolated communities, (2) the possibility that we will make badly off people worse off, and (3) a practical problem of deciding who to help. I will discuss these objections next in turn.

First, if the interdependence-based grounding of the human right to welfare were the correct grounding of the human right in question, we would not be morally obligated to assist isolated communities. To make this point, let us apply the human right to welfare grounded in interdependence to natural disaster scenarios. Consider the following: In 2014, Ireland held the Presidency of the European Council. At that time,

confines of the terms of the contract. With this, there is some argument that humanitarian assistance is not even part of the original contract and thus a state government is not required to provide it (Zack, 2011, p. 79). The social contract ignores the moral requirement inherent in human rights.

⁷¹ Surely, though, the number of individuals we interact with is vast because the international political and economic systems interlink us with all other humans around the world. For example, according to the US Department of State, there are 195 independent states in the world. The United States does not have diplomatic relations with Bhutan; however, Bhutan is a member state of the United Nations (US Department of State, 2013). So, while the US does not have direct political interactions with Bhutan, the countries are linked because they belong to the same global political body. The political actions (or economic or cultural actions) carried out in the international arena by either country are done in relation to the countries with which it shares UN membership. Thus, any US foreign policy is made in regard to or to defend against other countries. Actions carried out by UN members are thus done in relation to other countries and constitute interconnected interactions.

North Korea was cut off from all trade with western countries and it was not a member of the United Nations. It is therefore fair to assume that Ireland and North Korea did not have a trade relationship. Let us assume further that very few if any North Koreans lived in Ireland and thus cultural links with North Korea were minimal if not non-existent. In this situation, it could be argued that the interdependence based view of the human right to welfare entails that Ireland did not have a duty to provide assistance to North Korea in the event of a natural disaster.

Hence, if we were strict adherents to the interdependence-based grounding of the human right to welfare, there would be no duty to ensure the human right to welfare to those we do not interact with in a 'relevant way'. However, this is not how the world works in reality. Indeed, during a natural disaster response welfare is not delivered to those with whom a group has a relationship only: no group of people is excluded from the international community, no matter their status as pariah state or otherwise, such that international assistance will not be offered. Intuitively the international community sees it as a duty to provide assistance to other humans. This can be seen in situations where the international community air drops supplies for people affected by emergencies when in isolated areas or countries. We may consider whether dropping supplies is politically appropriate, is helpful to the overall situation, and will not exacerbate an existing conflict before delivering aid. What we do *not* consider is whether our relationship with those suffering is 'relevant'. In this way, interdependence does not in fact ground the human right to welfare. If it did people within pariah states would not receive air drops of assistance when required.

Second, by grounding the right to welfare in interdependence we are arguably perpetuating systems which disadvantage those that are already badly off. Our

global economic and political systems already disadvantage poor and/or developing countries. Thomas Pogge has forcefully argued that the global poor are disadvantaged because of the way in which the rich countries have divided up resources to their own advantage (2004, p. 14). In this regard, the global poor can be said to have been purposefully excluded from interactions. Hence it can be argued that the global poor may be excluded from claiming the human right to welfare if we ground it in interdependence. This perpetuates unequal political and economic systems and is not consistent with the universality of human rights.

Indeed, the disadvantaged will likely become further disadvantaged if we ground the human right to welfare in this way. Wealthy countries have the power to exclude from the international economic system and the power to say that if one is excluded the duty to assist no longer applies. Instead, consider an individual already excluded from international economic and political systems, such as a farmer in rural Africa. Pogge would argue that we still owe these people a duty of justice because of our bad actions and despite appearances otherwise. It follows that we have similar duties to provide assistance to those who are disadvantaged because of our actions.

Caney has explained that some interdependent notions of cosmopolitanism assume that we *may* have duties of humanitarian assistance to those outside traditional systems of economics and politics (Caney, 2009). This 'may', though, is still problematic in that it does not *ensure* that goods associated with the human right to welfare will be provided by relevant duty-bearers. In fact, 'may' does not imply responsibility; it simply implies permissibility. Once again, the global poor may be excluded from claiming the human right to welfare if we ground it in interdependence.

Third, deciding who deserves assistance based on who we interact with is impractical. If we ground human rights in interdependence, the decision to consider someone part of an interdependent network will be occasion specific and will be open to interpretation as to who qualifies for assistance. By arguing that interdependence is based on *relevant* interactions - formal political or economic relationships – we leave interdependence open to interpretation and ultimately misuse. Distinguishing between relevant and irrelevant interactions is also practically burdensome because it forces policymakers to consider who is a part of an interdependent network during a controversial emergency. If a natural disaster has hit North Korea, the decision to act must not be held up on a decision as to whether we actually have a connection with North Koreans or not. Assurances of welfare cannot be occasion specific. Likewise, because this type of aid is time-sensitive its delivery must not be held up whilst policy makers decide the degree to which a certain country has a ‘relevant’ interaction.

So, grounding the human right to welfare in interdependence and recognising our interconnectedness implies that we have a duty to all humans with whom we have interactions. However, grounding human rights in interdependence is problematic because it does not account for people in isolated communities and it perpetuates global inequalities and injustice. Additionally, determinations of which countries or people exist outside global systems can be situation-specific or inflicted on outlier states. If, then, even when rights are said to be grounded in interdependence, we still provide assistance, there must be a stronger, universal grounding at the heart of human rights. For discussion of this grounding I now turn to the humanity-based grounding of human rights.

4.3.3 Humanity-based Grounding of Human Rights

I have thus far explained and criticised two ways to justify the human right to welfare: the badness of pain and suffering approach and the interconnection-based approach. In this section, I will explain a third way of grounding the human right to welfare – the humanity-based approach. After putting the idea of a shared humanity in context, I will explain how the humanity-based approach to human rights can be understood either in terms of membership of the human species or in terms of the ‘unique’ features we share as humans. I will defend the view that human beings are inherently valuable and thus are deserving of respect. I will then discuss why humanity-based grounding is the most appropriate grounding of human rights.

Before discussing the humanity-based justification of the human right to welfare, an example will help set the scene. There are tribes deep in the Amazon that have not had contact with the world beyond their villages. One such tribe exists in the state of Acre. This tribe may have had contact with outsiders at some point but mainly they have lived a completely isolated existence (Survival, 2014). This means that, until very recently, the tribe did not have any economic or social interactions with the rest of humankind.

It can be argued that we should not attempt to integrate this tribe into our society. We should instead leave members of the tribe to live their lives as they have for many generations. Now, consider a situation in which a forest fire is quickly spreading toward the tribe. The fire was not started by humans but it is within human control to stop the fire. Ethically many of us would think that saving the members of

this tribe would still be the right thing to do. Why is it, then that we think that these individuals have the right to our assistance? We have already seen in this chapter that pain and suffering and interdependence (or lack thereof) are not sufficient to require international assistance. A natural response to the question I have posed is that we should save the people of Acre because they are humans.

Now, it should be noted that the human right to welfare can be grounded in humanity in two different ways. This right could be argued to be created by either our shared species membership or the 'unique features' of human beings. I will discuss these two alternatives in turn.

First, any being sharing the same human genetic coding is a human being – she belongs to the same animal species, *Homo sapiens*. By including all genetically identical animals in the definition of humans, we include 'marginal humans' (i.e. those with disabilities or limited brain functioning) as well as children and infants. Accordingly, it could be argued that any *Homo sapiens* should enjoy human rights simply because she is human.

There are two major objections to grounding human rights in species membership. The first is that doing so privileges a random (though specific) ordering of DNA over that of another being's DNA (Bernstein, 2002, p. 529). The priority placed on humans as deserving of special treatment is speciesist. Singer explains the criticism of species membership as a grounding of human rights: "If we ignore or discount their [animal's] interests, simply on the grounds that they are not members of our species, the logic of our position is similar to that of the most blatant racists or sexists" (2003). Hence grounding human rights in species membership is unethical in itself.

Similarly, we do not specify that one race of humans has rights and another does not. This is because all humans have, for example, the same interest in avoiding pain. In fact, when we have empathy for the suffering of humans of different races we are not empathizing with the other, we are empathizing with that which is the same. The morally relevant consideration is a being's interests and avoiding the suffering of that being in contravention of her interests (Singer, 2003; Diamond, 2005/2012). Their interests are our interests; species membership is irrelevant. Hence, grounding human rights on species membership is morally arbitrary in addition to being speciesist.

Chappell explains that often we identify nonhumans as 'other' first, and then decide how best to apply the criteria of personhood to defend our position (2011). This means that we have arbitrarily decided who will count and then determined criteria to fit our decision. In doing this we allow for prioritization of humans because we want humans to be superior, not because they are. By extension we prioritize the pain and suffering of humans over other species. This is faulty because it is arbitrary and fits decisions on superiority made on preferences, not morally distinguishable criteria.

A second criticism to using species membership as the qualifier for membership in humanity involves the issue of reproduction. The ability to reproduce is necessary to qualify as a member of a species. So, mules are not a distinct species because they are unable to reproduce to create a baby mule. Compare this to the fact that, some humans are born infertile or certain diseases render them unable to have children. Biologically speaking, we should say that infertile humans do not belong to the human species and thus should not have human rights. However, we would never think that a human who can't reproduce would be in some way less human than

those who can reproduce (Bernstein, 2002). Hence species membership is not an appropriate way to ground human rights because we do not actually consider the biological factors when determining the rights for humans.

So, the joint humanity grounding of the human right to welfare based on species membership is unacceptable. There is, however, a second way of using the humanity-based grounding. This justification begins from the argument that human beings are unique among beings because there are some unique qualities inherent to human beings that make them valuable. Considering the example of the tribespeople given previously, it can instead be argued that we believe the tribespeople to have a right to assistance based on our common humanity understood in this way.⁷²

In this section, I will discuss the humanity-based grounding of human rights which is based on respect for humanity based on those unique qualities of human beings (Caney, 2010). People disagree about which the properties are relevant thus making humans special and deserving of rights. Different arguments exist for which certain properties – sentience, cognition, autonomy, rationality and emotions – are important in this way.

I argue, in line with Griffin, that chief among these qualities is our ability to act autonomously in a certain special normative way because this quality, which we all value highly, seems to set us apart from other beings.⁷³ What this means is that, unlike other beings, we have the ability to form our own understanding of the good

⁷² This grounding is consistent with the universality and equality of both rights and duties. It is also consistent with cosmopolitan justice which stresses the importance of individuals.

⁷³ Nonhuman animals can be said to feel pain and pleasure, rationality and emotions and thus do not provide an explanation of what makes humans unique and therefore deserving of rights.

life in critical reflection and to pursue this understanding through intentional action. (Griffin, 2008, p. 45; Griffin, 2000, p. 29). I focus on autonomy because we seem to share many of the other qualities that have been suggested to ground human rights, such as share emotion and sentience, with nonhumans.

In contrast, nonhuman animals do not act on autonomous choices in the same way as we do; they may pursue things that are good for them by instinct but they have not formed their own conception of the good life before they begin to pursue a good life. Because of this, it can be argued that our ability to deliberate and act autonomously is the significant quality that both makes us as human beings unique and deserves to be protected by human rights.

In order to protect our normative agency, that which makes us fully human, Griffin argues that we then need three types of human rights: liberty, autonomy and welfare. Liberty is essentially freedom; no one can stop me from pursuing a good life. Autonomy is self-governance – the ability to make choices about one's own life. Welfare, once again, is minimum provisions. Humans cannot pursue their concept of a good life if they don't have certain basic elements necessary for survival. Hence, liberty, autonomy and welfare are, according to Griffin, the fundamental types of rights which, together, enable humans to live a fully human life as normative agents. By grounding the human right to welfare in 'humanity' in this way we are saying that humans can claim the basic material provisions which makes autonomy and liberty, and by extension, a fully human life, possible. In Section 4.4 I will provide criticisms of grounding human rights in this way as well as criticism of making policy around human rights in general.

And so, the uniqueness of humans is the most appropriate way to understand this grounding of human rights. Human rights are protections for us to act as the autonomous agents that we are. This grounding is also consistent with the idea of rights in general because the humanity based grounding drawn from agency allows for *universal* application – the autonomous agency of each individual person is protected by human rights. Likewise, this grounding is consistent with human rights because it ensures a basic minimum of resources which thus enables to live a good (autonomous) life. And finally, this grounding of the human right to welfare ensures that welfare is a high priority and thus prevents people from inhibiting our own good lives.

The human right to welfare thereby creates a human societal obligation to ensure that those items necessary for survival (food, shelter, medical attention and security) are provided to all humans based on our shared humanity when they are under threat.⁷⁴

4.4 Criticisms of Human Rights Use in Policymaking

There are various criticisms of human rights, though, which should be addressed considering the centrality of human rights to my thesis. Traditional utilitarians will argue that human rights are simply ‘nonsense upon stilts’ and thus should not be used to justify any policy. Social contract theorists may argue that there are certain

⁷⁴ There are of course difficulties for the duty holders of the human right to welfare when it is grounded in a common humanity. Take Hurricane Sandy (2013) in the United States. Experience shows that despite all efforts to evacuate cities and provide assistance, some humans may not survive a disaster. Indeed it may be impossible for duty bearers to provide all equally deserving humans with an equal share of the basic elements of survival. That, sadly, is a possibility in natural disaster scenarios – everyone might not survive. An inability to carry out the responsibilities owed to humans does not undermine a human’s claim to survival and minimal levels of welfare.

rights only deliverable by the state in which a person lives. Similarly, libertarians may argue that the rights argued for in this thesis are actually negative rights and hence a duty to provide the goods in question does not exist. I will discuss and respond to each of these criticisms of human rights in turn.

4.4.1 Utilitarian Argument

First, utilitarians make two arguments against using rights as the foundation of policymaking. The first argument pertains to the existence of rights in general. The second argument considers the existence of a human right to welfare in particular.

On the existence of rights, Bentham argues that human rights are simply ‘nonsense upon stilts’ (Bentham, 2002). He made this claim because he thought that no appropriate ground for human rights in the matters of fact. As a consequence, he argued that rights do not exist and hence cannot/should not be used to ground policies and practice of any kind. In responding to the establishment of the French Declaration of Rights Bentham argued that the idea of ‘rights’ of man was empty and highly problematic. For example, he argued that the human right to liberty cannot be grounded in reality because, as a matter of fact, humans are not free. All men are not born free and hence any reference to the inherent rights of humans prior to the existence of a state (i.e. rights stemming from natural rights) is not grounded in reality. Indeed, denying that men are born with constraints on their liberty can be seen as anarchical ravings (Bentham, 2002, pp. 323-324).⁷⁵

⁷⁵ Bentham further argued that humans are not equal in rights. To say so is to ignore the existence of privilege and power in the world (Bentham, 2002, p. 325). Likewise, socialists can claim that the scope of rights is still entrenched in issues of class and power (Waldron, 1987, p. 159). Liberals suggest that rights don’t adequately account for the needs of a given society. By focusing on helping

At this point, it could be suggested that natural rights, namely the inherent worth of human beings, underpin human rights. Bentham explains, however, that the French Rights of Man grounded in natural rights "...is simple nonsense: natural and imprescriptible rights, rhetorical nonsense, nonsense upon stilts" (Bentham, 2002, p. 330). Articulation of rights is only an articulation of a need and one cannot have a duty to preserve an abstract need. Instead, rights are simply a legal construct, grounded in national structures. There cannot realistically be moral rights because there is no basis upon which to ground them, or so Bentham argued.

I disagree with Bentham's argument that rights are simply rhetorical devices and that even speaking of them can lead to anarchy. I address the suggestion that they are rhetorical devices first. The main problem of this claim is that there is no basis for it if a grounding for human rights can be found from the reality. In the previous section, I suggested that human rights can be grounded in the fact that human beings are normative agents – they are able to form independently a conception of a good life and to pursue it. There thus is a ground for human rights in the way things are. Yet, if we consider claims about human rights and that to which they entitle us, we should not understand these claims to be assertions about the current reality in the way Bentham thought: human rights are articulations of what normative agents *should* be entitled to and in this way are normative. What Bentham's discussion misses is that rights are inherently normative: they explain what claims people should be able to make on society. Rights are not set out as descriptive notions of the lives humans

the individual we may not support society in such a way as to make the individual's life, within that society, meaningful (Waldron, 1987, p. 158). Waldron briefly explains the feminist position in relation to human rights. According to feminists, he explains, rights are not universal in that the oppression of rights suffered by men are only a component of greater and separate oppressions suffered by women (Waldron, 1987, p. 159). Thus there should be a separate list of wants/needs in relation to rights.

currently live – they are claims on the lives we should be living. In this way, we cannot rely on legal systems to ensure our rights. If we do, humans will be left open to the subjective, prejudicial and changeable nature of policy, politics and politicians.

My second issue with Bentham's argument about rights is that he suggests that rights are dangerous because they can lead to anarchy. If rights do not spring from national laws, then governments will be constantly open to revolution and anarchy, or so he claimed (Alexander, 2003, p. 11; Bentham, 2002). The central concern here seems to be that a governmental authority will be questioned or overturned should the people feel they are not receiving what is owed them. Alexander suggests that Bentham is concerned that rights form a "foundation of political legitimacy on a utopian, unachievable fiction" (Alexander, 2003, p. 11).

Whilst complete and universal adherence to universal human rights norms has not been achieved (and many countries still violate human rights), the perpetuation of human rights norms since the 1950s has not caused anarchy. Despite revolutionary overthrows of governments linked to demands for the goods associated with human rights we do not live in anarchy. Actually, governments have been overthrown for centuries before people accepted that they had human rights. In this way, human rights are not particularly at odds with a national government's peaceful rule over a territory.

Furthermore, other than the possibility of violence or hardship for those concerned, I do not see why a government being responsible to its people for some moral reasons is so controversial. I would argue that there should be a moral mechanism for people to make demands of their government. As will be discussed in Chapter 8,

legitimacy depends not simply on citizens following laws and acquiescing to authority. Indeed, the state must also uphold a moral norm within society based on its duties to the people.

The second utilitarian argument against using human rights as the foundation of policymaking has to do with a specific understanding of welfare maximization. There is a conflict between rights theory and utilitarianism. It can be argued on utilitarian grounds that in some instances welfare will need to be re-distributed (taken from one, given to another) in order to maximize societal well-being. So, let us consider two situations. In Situation A imagine that there is an opportunity for three people in the hospital to be very well and one person to be poorly. In Situation B healthcare has been distributed such that all four people are moderately well. Utilitarianism says we should opt for the healthcare in Situation A. Rights theory, on the other hand argues that we should choose B if A violates the rights of even one person.

Welfare maximization in the way that utilitarians suggest is thus not in line with rights theory. Rights theory is based on the idea of the inherent moral worth of each human individual and as such each human on this view is guaranteed equal claims to the scope of a right in question. This is why we should reject utilitarianism and its preference in the healthcare example above and we should prefer rights theory. Recognizing the value of each human and honouring their rights does not mean that they should receive exactly the same amount of welfare. Instead, they should receive a distribution of societal welfare such that their basic needs are met. Intuitively and ethically sacrificing one for the welfare of many is impermissible. Rights theory does not allow us to maximize welfare when that requires taking

welfare away from an individual. According to rights theory each individual has equal moral worth and thus is deserving of respect. This is ethical intuitively.

I would go so far as to argue that utilitarianism is not a plausible theoretical approach to policy making. Consider the transplant case here. Let's say there are three people in need of different organs. If one healthy person walks into the hospital (and in the absence of other moral questions), welfare maximization in line with the above entails that it would be morally permissible to kill that one person for her organs in order to maximize overall welfare (Thomson, 1976; Sinnott-Armstrong, 2015). Realistically, no one would make the moral argument for killing one to save five. In this way, developing policy based on human rights is more appropriate.

4.4.2 Social Contract Argument

A second possible criticism of human rights has to do with the social contract theory. According to contractarians there is a social contract between citizens and government which only exists at the national level.⁷⁶ In Section 4.3.2 I outlined the interdependence-based grounding of the human right to welfare which includes a more thorough argument against that of the contractarians. The duty to provide certain rights, it is argued, is only deliverable by the government with which an individual has engaged in such a contract. Within the terms of the social contract theory and assuming that certain rights (i.e. welfare) is a civic right, it can be argued

⁷⁶ In Section 4.3.2 I outline the interdependence-based grounding of the human right to welfare which includes a more thorough argument against that of the contractarians.

that it is up to the state to provide for its citizens.⁷⁷ Human rights are therefore an unnecessary type of rights.⁷⁸

Now, the social contract criticism of human rights would suggest that developing policy for distinct communities may be a worthwhile venture. However, this assumes that each bounded territory represents a distinct civilization (Waldron, 1987, p. 169). In fact, countries are multicultural and diverse communities in which there will be many people who did not enter into the social contract with the state in which they live. It follows that the needs of certain people within a country will not be afforded the same rights as offered to their contractarian neighbours. Human rights account for diverse communities and ensure equal and universal enforcement of the scope of certain rights. To ensure that all people within a state receive equal enjoyment of rights, there must actually be human rights; rights at the state level are not enough.

4.4.3 Libertarian Argument

⁷⁷ Indeed the social contract legitimates the state and allows it to govern with the consent of the citizens. A symbiotic relationship between state and citizen is thus created. Citizens are self-determining and create the state to carry out their collective will. The state exercises the will of the people and provides security and mechanisms for cooperation. Citizens have rights to security and cooperation and the state has a duty to provide. One party cannot function in its role without the other carrying out its function. A more recent Rawlsian explanation of social contract theory suggests that social contract theory has three central features: the contract is made between roughly equal parties; the contract is made for each party's mutual advantage; and the nation state is the basic unit around which the social contract is made (Nussbaum, 2007, pp. 4-5). From this contract, then, individuals can reasonably expect the goods associated with a given civic right. Those within a state are, as argued by contractarians, roughly equal and their personal moralities are inextricably bound to the society and culture into which we are born.

⁷⁸ I will respond to this criticism more fully in Section 8.2 where I explain that a state need not have ultimate authority for it to maintain certain authority over a people. For now, though, I will say that, whilst the terms of the social contract helps legitimate state authority, it does not follow that the state is the only body able to provide political rights, security and cooperation. Instead, the international community is able and actively does provide those goods once thought to only be possible within a state

A third possible critique of human rights comes from libertarians. In a libertarian view, governments only have *negative duties* not to harm. Most importantly, the burden positive rights cause would inhibit individual negative liberty (Cross, 2001, p. 863). I should be free to use my money and my time to pursue a good life for myself. *Positive duties*, in contrast, would require government assistance in response to individuals' claims (Cross, 2001). That would require me to spend my time and money on someone else's desires/needs.

Indeed, according to libertarians there are no positive duties. Any positive rights and associated duties would likely be politically and economically cumbersome. Additionally, a positive right requires that a governmental system exists (at whatever level) to fulfil the associated duties (Cross, 2001, p. 866). This would restrict the liberty of individuals and only constraints like time, nature, and my own abilities (things that cannot be controlled) should limit a person's pursuit of their own good life. So, libertarians argue that no one should interfere with personal freedom and by extension they would argue against the existence of a human right to welfare.

According to libertarians, then, freedom is more important than welfare because it allows a person to pursue a flourishing life as they see it. The corresponding duties to human rights would impose restrictions on individuals from living their own lives. Libertarians thus believe that the government (and co-citizens) do not have duties to act in support of a person's rights. It problematically follows that human rights are not something to be delivered by the international community to individuals (Pogge, 2008, p. 70). The state's role is solely to ensure that individuals are free to pursue their own interests without external interference.

The libertarian view is problematic. It should be observed first that welfare and freedom are important for the very same reason: they both enable a person to pursue a good life. However, we should also note that, without basic welfare, a person cannot interact with or enjoy their freedom. Contrarily, if basic food, water, shelter and medical assistance are provided, a person can then freely act on their pursuit of a flourishing life. For example, I should be free to own property and manage a given piece of land in a way that will add to my own good life. Let's say I choose to farm the land so that I am self-sufficient. If I break my arm and no one is able to manage my farm I will not have any food and no recourse to assistance. Surely, a good life would entail access to food. If libertarians think that freedom matters they should likewise recognize that a right to basic welfare will equally enable them to basic food stuffs which will enable them to pursue their own idea of a good life. Hence, welfare is at least as important as liberty in supporting a person's pursuit of a good life.⁷⁹

In sum, there are various critics of the concept of a universal human rights structure.

Libertarians, social contract theorists and Benthamites propose reasoned criticism of

⁷⁹ As there has not been a libertarian response to a natural disaster, to the best of my knowledge, I cannot comment on how welfare was restored post-natural disaster. However, I suggest that even with the best preparedness possible (see Section 2.1) a community may face disaster response scenarios that overwhelm established preparedness measure. It is in these situations that we should discuss the moral distinction between killing and letting die. According to the Libertarian view that we only have negative rights we can expect that others have a duty not to kill us or, rather, to deprive us of our life. Now, in any emergency, take natural disasters, there is a possibility that we will be at risk of death as a result of the emergency event.

I expect that if assistance was offered by a national (or supranational) government, libertarians would not refuse life-saving food, water or medical care if they or their families were starving or dying from injuries sustained. Nor would they suggest that their principles of free living were worth dying for when aid was being offered. Instead, it is reasonable to expect that libertarians would request assistance from anyone in a position to provide it should the need arise. If positive duties do not exist then libertarians should argue that those affected should be left to die. I do not believe that this position is realistic. As will be discussed in detail in Section 7.2.2, whilst killing is worse, morally speaking, than letting die, they are both wrong, even if to different degrees. Hence, the discussion on positive rights should be an issue of who/what bears the associated duty, not on whether they exist.

the development and application of human rights to policy making. However, human rights are an appropriate type of right in that they are universal, treat individuals equally, and ensure that the goods associated with certain rights are provided to right-holders. The anti-human rights positions cannot guarantee all of these things.

4.5 Conclusion

In this chapter I have explained that human rights are a particular kind of right. There are three features of human rights pertinent to this thesis. These features are that they are high priority norms, set minimum standards and are universal.

A specific human right is the human right to welfare. A person is said to have a high level of welfare if her life is going well. There are three ways to understand welfare: hedonism, desire satisfaction and objective list theories. In this chapter I argued for objective list theories of welfare because it is consistent with human rights in general and helps to establish the human right to welfare as a high priority norm, set a universal standard (for the provision of welfare) and, the objective list means that it can be universally applied. Items like food, water, shelter and medical care set a minimum standard for what is necessary for survival and ultimately contribute to one's ability to lead a good life. The human right to welfare grounded in the uniqueness of humans based on our agency and ability to know and act on our own idea of a good life is the most convincing grounding because it is consistent with the spirit of rights, allows for universal application, and is the most practically implemented.

In sum, human rights are justified and are an appropriate mechanism around which policy should be made. Looking forward to my development of natural disaster policy, human rights are the appropriate mechanism to justify the need for such policy because the human right to welfare accounts for the basic needs of all humans. Further, the human right to welfare, because it is a human right, is a high priority norm and is of a higher priority than other national-level political or economic rights. Additionally, the human right to welfare sets the minimum standard as to the provision of basic goods and forces the universal provision of such goods in line with the normative function of human rights.

CHAPTER 5: INTERNATIONAL LAWS AND NORMS FOR INTERVENTION

Current international laws and policy doctrines do not allow for an international intervention when a domestic government is unable or unwilling to respond to a natural disaster scenario within its own borders. Consequently, policies and procedures for such intervention have not been developed. Any assistance to a population affected by a natural disaster is the responsibility of a domestic government which, in effect, removes the legal responsibility of the international community to respond. This means that those affected by a natural phenomenon (as opposed to conflict, war or humanitarian emergency) are extremely vulnerable (see discussion in Section 2.1). Reliance on a national government to respond and the associated lack of policy, laws and doctrines at the international level can put those affected by a natural disaster at a high risk of mortality and morbidity.

The lack of laws is the challenge and the opportunity to which I now turn. In this chapter, I will consider the existing international laws and norms for interventions as they currently stand. I will focus mainly on Article VII of the UN Charter and the Responsibility to Protect Doctrine. This chapter will therefore provide background for my argument for intervention policy in natural disaster scenarios in Chapter 7.

This chapter will be structured as follows. In Section 5.1, I will provide context to and make a distinction between intervention, just intervention and disaster relief. In Section 5.2.1, I will provide an account of intervention policies and norms as they currently exist. Having done so, I will then discuss two major normative approaches to intervention in Section 5.2.2 and 5.2.3: Just War Theory and the Responsibility to Protect. In discussing Just War Theory I will provide one way of understanding when

it is appropriate to intervene into the affairs of another state. Similarly, I will also describe the relevant components of the Responsibility to Protect (RtoP) which offers alternative guidance as to when to intervene. RtoP establishes norms of intervention for genocide, humanitarian emergencies, human rights abuses and crimes against humanity but it does not apply to natural disasters.⁸⁰

5.1 Intervention, Just Intervention and Disaster Relief

In this section, I will define the main terms for the following discussion. In successive sub-sections, I explain the notions of intervention, just intervention and disaster relief. I describe these different types of support delivered to those affected by a catastrophe to show the kinds of assistance the international community delivers. In later sections, I argue that if the international community is capable of providing a certain type of assistance in one scenario, then it is unethical to deprive those affected by a different scenario, namely a natural disaster, of the same assistance.

5.1.1 Intervention

First, very generally, an intervention is simply the interference of one state into the affairs of another.⁸¹ For the purpose of this section I am taking intervention in its broadest possible meaning, namely, as any unrequested or intrusive meddling into another state's affairs, policies or interaction with a country's people. Thus, an intervention in this sense does not necessarily entail a military component. Economic

⁸⁰ I explain my inclusion of a discussion on RtoP in this thesis in Sections 1.3.2 and 5.2.4.

⁸¹ See Section 4.3.1 for more discussion. For a discussion on the varying degrees of intervention see (Holzgrefe, 2003, p. 18; Tesón, 2004).

sanctions, travel restrictions, dismissal of diplomats, etc. are all kinds of interventions.

Traditional intervention theory has its roots in the political philosophy of Saint Augustine and Thomas Aquinas (Fixdal & Smith, 1998). However, what has historically been understood as an intervention has changed as a result of the genocides of the 1990s.⁸² Intervention is now typically defined more narrowly and includes the use of force. It is this use of the term that I am interested in.

So, as it will be used in this thesis, an intervention specifically involves an armed use of force. Holzgrafe begins his definition of this particular type of intervention as follows: “the threat or use of force across state borders by a state (or group of states)” (2003, p. 18). Interventions usually involve foreign powers, organizations or states using force against another state, within which individuals are suffering from some level of crime, violence or deprivation beyond an internationally acceptable threshold (Orend, 2008; Tesón, 2004). When the term intervention is used in relation to war and conflict scenarios we are using this definition.

Armed intervention faces more scrutiny than interventions without a military component and as a result it is highly restricted in international law. States are considered to be sovereign and thus have a right to non-intervention. At a minimum, any inference without explicit invitation can be considered an act of aggression. At its extreme, interference without invitation can be deemed an act of war. Thus far I have

⁸² For the purpose of my thesis it is unnecessary to assess historical terminology and implications. For that reason I will only discuss what we currently understand as intervention.

explained what an intervention is in general terms. There is still the question as to whether that intervention is just. That is a separate discussion to which I now turn.

5.1.2 Just Intervention

There is a distinction in the literature and in public opinion between a just and an unjust intervention. Unjust interventions are simply immoral interventions. I intend to argue for the development of just intervention policy in Chapter 7 and so I will not explain all the ways in which an intervention may be unjust. Instead, I will briefly explain here what is meant by a just intervention.

Holzgrefe's definition of intervention includes a consideration of the human rights of those people for whom the intervention will be carried out. He explains why an intervention is being considered and the goals associated with an intervention:

the threat or use of force across state borders by a state (or group of states) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the state within whose territory force is applied (2003, p. 18).

Holzgrefe provides distinct components of an intervention: the use of force, intention to prevent human rights abuses, and a lack of permission.

However, in order for an intervention to be just, the intervening state or international organization must be able to justify its use of force against another state to the international community on the grounds that it has a duty to do so (Conces, 2001, p. 138; Fixdal & Smith, 1998, p. 299; Nardin, 2005, p. 22). Importantly, appealing to the need to support human rights is not enough to morally justify an intervention

(Conces, 2001, p. 138). Interventions must therefore be justified to the international community using many factors including the sovereignty of an affected state, the financial and political commitment an intervention entails as well as the possible loss of life. These will be discussed in detail in Chapter 7.

Justice in intervening should be based on existing doctrine. *Ius ad bellum*, or justice in going to war, is the umbrella term used to qualify a just intervention when a state is deciding to go to war. Tesón offers that a (humanitarian) intervention is permissible under the following conditions: it is the

proportionate international use or threat of military force, undertaken in principle by a liberal government or alliance, aimed at ending tyranny or anarchy, welcomed by the victims, and consistent with the doctrine of double effect (2004, p. 94).

These represent the start of the Just War conditions for carrying out a military intervention which will be discussed in Section 5.2.2.

5.1.3 Disaster Relief

Interventions for natural disasters do not occur. Instead of intervening, states usually respond to natural disasters in other countries by providing disaster relief. Perhaps for this reason, natural disasters are often deliberately excluded from intervention policy. Daniele Archibugi explains that aid provided as part of natural disaster response is not intervention at all but rather it is more appropriately understood as humanitarian relief. He notes that such relief is delivered with the consent of the affected government in line with norms of disaster relief (Archibugi, 2004).

The Hyogo Framework for Action (HFA), agreed to by most UN member states, sets out the means and goals for the management of disaster response (UNGA, 2014).⁸³ However, HFA focuses on relief and does not consider whether intervention (when consent for such relief support is not forthcoming) could be required in some natural disaster scenarios. Thus, in order to argue for intervention policy instead of simply disaster relief, I must define disaster relief and explain how it differs from intervention.

“Disaster relief” can be understood loosely as the normal response to a natural hazard. It is simply support in response to natural and man-made emergencies and includes the provision of food, shelter and medical supplies (American Red Cross, 2014). The United Nations Office for Disaster Risk Reduction (UNISDR) is charged with coordinating, guiding and monitoring disaster relief and recovery operations globally. The provision of such natural disaster relief is facilitated by the Emergency Relief Coordinator who first and foremost obtains the consent of the affected parties (UNOCHA, 2014). Thus, while UNISDR coordinates relief at the global level, disaster relief is only delivered once a state government consents. Then, the operational relief effort is provided in coordination with state governments, NGOs and charities.

It is clear, then, that the international community does have policy for responding to natural disasters when invited by an affected country. However, this is not enough. Later I will show that in situations where a government is unable to articulate its

⁸³ The post-2015 framework for disaster risk reduction is intended to compliment the Hyogo Framework for Action (2005-2015) and asserts the ‘plan of action’: “a. Prevent the creation of new risk by the adoption of risk-informed growth and development pathways that minimise increase in exposure and vulnerability; b. Reduce existing risk through the action that addresses and reduces exposure and vulnerability, including preparedness for disaster response; c. Strengthen resilience by social and economic measures that enable countries and people to absorb loss, minimise impact and recover” (UNGA, 2014, pp. 3-4).

needs, policymakers must recognize that there are circumstances in which disaster relief is not enough and intervention should at least be a response option.

In this section, I have differentiated between intervention, just intervention and disaster relief. In Chapter 2 of this thesis, I provided examples of state governments being unable or unwilling to support their own citizens. In light of these distinctions and the examples provided in Chapter 2, I now provide an outline of current acceptable grounds for intervention.

5.2 Current Grounds for Intervention

In order to demonstrate that intervention for the purpose of aiding those affected by natural disaster is appropriate and required, I now explain the current norms of intervention in general terms.⁸⁴ I will first analyse intervention norms as they already exist. To do this in Section 5.2.1, I will discuss why an intervention may be necessary. Objections and problems associated with interventions in general and, more narrowly, in relation to natural disasters will be discussed in Chapter 7. In 5.2.2, I will discuss Just War Theory which sets out the criteria for when “going to war” may be considered just. In 5.2.3, I will discuss the Responsibility to Protect doctrine (hereafter RtoP). This doctrine establishes the type of emergency where interventions would be permissible. These two norms are specifically discussed because they each guide our decision-making in the use of force in importantly distinct ways and scenarios. I will use Just War Theory as a framework for my proposed natural disaster intervention policy in Chapter 7, hence its inclusion and discussion here. RtoP is discussed in this section because it is the currently

⁸⁴ In this thesis, I will assume that any suggestion of an intervention implies a just intervention unless otherwise stated.

established mechanism through which humanitarian interventions are carried out. Accordingly, its positive and negative aspects must be understood in detail so as to understand the likely positive and negative aspects of any newly established intervention policy. RtoP is also discussed in this section to show that current intervention policies do not permit intervention in natural disaster scenarios (as I will explain here and in Section 6.1).

5.2.1 When an Intervention May Be Necessary

When there is an emergency in a foreign country, the first option available to those wishing to provide support is to offer assistance and condolences through diplomatic channels. Intervention is not the first support option. Military forces are usually utilized only when diplomacy has failed. Diplomacy 'failing' implies that all non-force types of intervention have been tried and there are no non-military alternatives available to secure peace and security. However, even when diplomacy has failed, force may only be used once further conditions have been met. In order to use force there are several conditions that must be met before it will be seen as an appropriate next step.

Conditions for intervention have been established by the international community. For example, Chapter VII, Article 39 of the UN Charter specifies that an intervention, should only occur when there is a "threat to the peace, breach of the peace, or act of aggression". Threats to persons or threats to international peace are specific, officially mandated triggers as to when an intervention can be considered. These threats can be against persons or international stability more generally.

Protection of those affected One possible reason for the international community to suggest an intervention is to protect those under threat of violence or abuse.⁸⁵ However, this reason does not justify intervention in all situations. For example, consider a situation in which a police officer uses lethal force against a suspected criminal. This is an official act (because it is done by a member of an official state body in an official capacity) carried out against a civilian. In democratic societies the civilian is presumed innocent because there has been no trial to prove the criminality of the act. The police officer's killing of the suspected criminal is thereby wrong and illegal. However, it is not a human rights concern because it did not occur on a grand scale and because it does not represent a systematic policy of killing innocent civilians (Pogge, 2008, pp. 63-64). A mass killing of civilians by officials would pose a greater concern for humanity and possibly justify intervention.

Instead, the international community usually assumes a duty to intervene when the human rights of a group of people are undermined to such a degree that it "shock(s) the moral conscience of mankind" (Walzer, 1990, p. 107) (see also (International Criminal Court, 1998)). After World War II, the international community agreed that, when a given people are at risk of harm due to the actions of their own government, the rest of humanity has a duty to intervene to help. The Convention on the Prevention and Punishment of the Crime of Genocide (9 December 1948) was one of the first international conventions setting out grounds and terms of an intervention (ICRC, 2013). Through this and similar doctrine on humanitarian intervention, the parties to the agreement (currently 147 plus 1 state signatory) assigns responsibility

⁸⁵ It is important to note that these reasons as to why intervention occurs are normative and articulate what *should be* the reasons for intervention. Domination, self-aggrandizement, etc. are possible reasons that one country intervenes into another. These are not justified reasons and are discouraged as drivers for intervention.

to states and individual persons to respond where necessary to aid those facing genocide or similar threat (ICRC, 2013).

Genocide, however, is not the only trigger for an international intervention. Humanitarian emergencies (i.e. a disease outbreak), large scale human rights abuses (i.e. the forced migration of a population due to government and rebel programmes), and war crimes (i.e. the use of biological weapons against a civilian population) are all possible grounds for an intervention under current international norms. The justification for intervening in all of these situations is the required protection of a given population (ICISS, 2001).

Protection of international peace and security The second ground for intervention is protection of international peace and security. Recent bombings of Islamic State (IS) strongholds have been carried out in response to attacks on Paris in 2015 (Doherty, 2015). IS's intentional killing of a civilian population may be classified as a war crime (International Criminal Court, 2002). This is regardless of the fact that the Paris bombings took place outside a recognized warzone. IS's actions were taken to be threats to international peace and security because they undermine international law. If countries do not intervene against IS the international political system (arguably) loses its authority and does not adequately serve to protect those it was meant to protect.

Arguments against intervention can be made with reference to Article 2(4) of the UN Charter which explicitly forbids the use of force against the territory or independence of a state. Article 2(7) goes further and explicitly states that nothing in the Charter allows for intervention (United Nations, 2015). Diplomacy, trade sanctions, delivery

of humanitarian supplies, etc. are preferred methods of response as any act of force (which would be used in an intervention) is a possible destabilizing action. For example, rather than engage in a direct military campaign, in the IS example the US carried out targeted bombings and attempted to evacuate Yazidis and other Christians groups from Islamic extremist strongholds in 2014 (Spencer, 2014).

In sum, political unrest or mass destruction within a state is not strictly confined to that state and may threaten international (or at least regional) peace and security. Hence, in the current global paradigm, non-intervention as a political norm is not suitable in all situations. In fact, Chapter VII of the Charter allows for the use of force if there is a threat to international peace and security (United Nations, 2015). It is often invoked when the decision to intervene in the affairs of another country is being discussed. Thus intervention is required when all possible alternative means of providing assistance has failed and international peace and security is at risk.

5.2.2 Just War Theory

In this and the following section I outline two dominant paradigms for how and when intervention is justified: the Just War Theory and the Responsibility to Protect. Both are theoretical in nature and are non-binding. However, they are vitally important to the debate and shape the context in which interventions are carried out. Each will be discussed in turn.

Just War Theory outlines the principles defining when an intervention into the affairs of another state is justified (Orend, 2008). The origins of Just War Theory, as explained previously, can be traced back to the writings of Thomas Aquinas and St

Augustine. There are disagreements as to the individual criteria used to justify going to war as well as Just War Theory's relevance in general.

Traditional Just War Theory holds that self-defence is the only morally justifiable reason for going to war (Luban, 1980, p. 163). Modern Just War Theory, however, allows for a broader range of justifications for a just war and is most notably linked to the writings of Michael Walzer (Walzer, 2006). For example, a just war may be waged "in defense of socially basic human rights" in addition to the traditional view (Luban, 1980, p. 175). While concerns over breaches of sovereignty and territorial integrity do not fall away by using this interpretation of just war, we are at least able to address many of the current global threats carried out by non-state actors, terrorist groups, and natural disasters.⁸⁶

Just War Theory thus provides guiding theoretical principles which can be used to guide decisions about going to war or intervening in general. Just War Theory sets out six individually necessary and jointly sufficient conditions which define when war, or other military intervention short of war, is just. These conditions are just cause, right intention, last resort, proportionality, reasonable hope of success, right authority (public declaration), and relative justice (See (Fixdal & Smith, 1998; Luban, 1980; Orend, 2008; Walzer, 2006). Each will be described in turn. As already mentioned, individually these conditions are not sufficient to justify the use of force. Instead, it is

⁸⁶ Considering the wrongs of past wars and crimes against humanity, there are certain actions that international society is no longer willing to accept and Just War Theory has expanded to integrate these global ethical norms. These are the deeds that are said to 'shock the conscious of humankind'. There are also new threats in our global society. Global networks of terrorist organizations, civil wars and political unrest that have ravaged and demoralized a population to the point that they are not able to counter their government (no matter how much the population wants to). Using the modern interpretation of Just War Theory also opens the possibility that intervention for natural disasters may be seen as just.

the combination of them together and the weight of each condition in a given scenario that determines whether the use of force is just.

(a) *Just cause* Most importantly, for a just war or an intervention to be deemed just, there must be a just cause. At its most basic, Jeff McMahan explains that a just cause is simply “a good or compelling reason to go to war” (2006, p. 1). Historically, a defender-aggressor relationship exists in which it is easy to determine who has committed a wrong. Still further, Johnson explains the Augustinian view that a just cause may be one in which the party intervening or waging war is neither the defender nor the aggressor. Instead, this third party may be defending the innocent from the powerful (1984, p. 22).

Corresponding to this understanding of a just case, self-defence is explicitly recognised as a legitimate reason for going to war in Article 51 of the UN Charter and thus it is also entrenched in international law (Fixdal & Smith, 1998, p. 295). When an aggressive act as detailed above is committed against a population, it is just for outside forces to consider commencing an intervention against those committing the aggression. To illustrate this point, consider a recent clash in Eastern Europe in which Russian separatists and Ukrainian forces collided throughout 2014-2015 (Williams, 2015). Even with the death toll rising, a specific group was not targeted and the damage did not hit a level that ‘shocks the conscience’. There may be alternative just causes for intervention into this situation (economic stability of the region, international peace and security, etc.) but here Ukrainian self-defence can be used as a legitimate reason for going to war.

In more recent literature just cause has been expanded to include prevention of human rights abuses (McMahan, 2006). In these situations, the human rights abuse that qualifies as a just cause will usually include large scale abuses. The relevant aggressions can include genocide, forced migration of minority groups and other acts involving large numbers of people.

(b) Right intention The second necessary condition for entering a war justly is that the country that does so acts with a right intention. A right intention aims at preserving human dignity and/or at creating international peace and security. It should not be driven solely by selfish motives. Accordingly, an intervening state must make the case to the international community that it has a right intention and thus the "...motive for responding to the cause and taking up the goals" must be just (Fixdal & Smith, 1998, p. 286).

The major reason declared by the United States in their decision to attack Iraq in 2003 was Iraq's possession of weapons of mass destruction (Record, 2003). The stated fear was that the threat posed by these weapons in the hands of 'rogue states' could not be met with a policy of deterrence alone (Record, 2003, p. 3). The possibility that nuclear weapons could be used against neighbouring countries meant that they were a threat to international peace and security. While inspection of the sites never found evidence of WMDs, the intervention was intended to respond to imminent aggression thereby meeting the 'just war' condition.

There are, of course, those who argue that a 'new imperialism' was actually the driver behind the US invasion of Iraq. Terry Nardin explains that the United States replaced the rhetoric of "barbaric practices" once used to justify imperialism with

“tyranny and terrorism” as justifications for intervention in the name of humanity (2005, p. 25). Regardless of whether Nardin is correct, the intervention was at least initiated using humanitarian justifications.

(c) Last resort There will likely be situations in which a just cause exist and an interveners’ intentions are motivated by humanitarian concerns. In these situations, the last resort condition requires that all actions short of military engagement have already been exhausted before force can be used. Diplomacy, trade sanctions and other actions that do not use force should be attempted before military action is taken.

Some groups or politicians might argue that there are alternatives to going to war that have not been considered or tried. The last resort condition for just war can hence be quite difficult to prove. However, all attempts at resolving the situation without using force should be carried out before the use of force is entertained as a response option. Thus, according to the standards of Just War Theory, going to war can be just only when all other options have been exhausted and the use of force is the very last resort.

(d) Proportionality When going to war, the intervener must prove that the use of force is a proportional response to the aggression being committed. Conces explains that this principle is simply “a matter of weighing the consequences of the various military options that are available” (2001, p. 147). So, for example, using nuclear weapons against a state that is using 20 year old tanks and rifles to defend itself is not a proportionate response. Proportionality, instead, is about using the right amount of

force so that aggressions are halted. McMahan explains that proportionality is a separate criteria from just cause in that it is wholly about the “scale, magnitude or comparable importance” of going to war (2006, p. 4). In this way, proportionality is the measurable aspect of Just War Theory.

Similarly, the cost to an intervener’s own military and its domestic population contribute to the proportionality condition of just war. A long and costly invasion period may undermine the economic or physical security of the people in the intervening country. Proportionality requires that the citizens of the intervening country are not unduly burdened by the intervention such that it undermines their lives and livelihoods. If it does undermine their lives and livelihoods the duties associated with the political and economic rights of the people in the intervening country are not being addressed.

Consider the invasion of Afghanistan after the 2001 terrorist attacks as an example. Let us apply the proportionality condition alone to this scenario and put to one side the just cause or right intention conditions. If considering this condition alone, it can be argued that the US-led coalition invasion of Afghanistan in 2003 was not a proportionate response because of the costs to life and livelihood incurred by US and Afghani citizens. The US also had an enormous advantage in the way of fire power. Using this hardware to invade a country which only had access to antiquated guns and tanks may be seen as disproportionate.

(e) Reasonable hope of success The Afghanistan example forces us to question whether there was ever a reasonable hope of success. As explained above, when considering the use of force, there must be a reasonable hope that the use of force

will actually improve the welfare situation for those affected and for international peace and security. A clear operational and strategic plan must be developed before the intervention is put into action. An exit plan is also necessary. If a country becomes dependent on the invading force the invasion has failed in its attempt to re-stabilize a stable state and thus to re-establish international peace and security.

If there is no reasonable hope of success, the invading force is putting the affected population at further risk of death whilst meanwhile putting its own forces at risk. One way to measure the success of a military operation is to determine the number of lives lost (or at a minimum negatively affected). An intervention which haphazardly puts its military at risk did not have a reasonable hope of success in the first place. By fulfilling just war criteria we limit the injustice acted upon those already affected by the emergency. If the population affected or the population responding are expected to be made worse off by the war, then it has not filled this necessary condition of having a reasonable hope of success.

(f) Right authority The intervening force must have a right authority for an intervention to be just. Those with legitimate authority to declare war include states and international bodies. Individuals or groups of any sort do not have such authority to wage war and instead their use of force is usually considered rebellion or terrorism. The right authority condition can also be understood as a requirement for an international approval for an intervention. When all of the other just war criteria are met, the international community may authorize the use of force. (See Chapter 8 for discussion on a sovereign state's monopoly on the use of violence.)

(g) Relative justice There are, thus, very clear conditions under which the use of force is claimed to be 'just'. Collectively, these conditions form the theoretical framework for waging a just war. Even though this list is detailed and wide ranging, it is not exhaustive. Each conflict requires independent consideration with the scenario reviewed in isolation. Other, similar interventions should be studied, but the grounds for intervention are not and should not be dependent on whether war was waged in a 'similar' situation previously. The just war conditions should be considered on their own merit each time there is an impetus for going to war.

In this section I have outlined the conditions for waging a just war. These same criteria are not considered when deciding whether to intervene after a natural disaster as natural disasters are removed from this (and most) analyses of the just use of force. In Chapter 7, I explain that Just War Theory should be applied when developing intervention policy for natural disaster response.

5.2.3 Responsibility to Protect

The Responsibility to Protect doctrine is a second way of determining when a military intervention is just. While modern Just War Theory is the outcome of ongoing historical debates, the Responsibility to Protect is a very recent theoretical development. The Responsibility to Protect emerged as a doctrine for appropriate intervention only in the last twenty years. It is now central to humanitarian intervention debates and is therefore highly important for the purposes of my analysis as to whether intervention as a part of the natural disaster response could ever be morally appropriate and required. I will provide an overview explanation of the origin and use of the Responsibility to Protect including (a) a background of its

development, (b) its processes, priorities and the way in which it is delivered, and finally (c) how it is used in international affairs. I will end this section by discussing why RtoP has not been, nor should be, applied to natural disaster situations.

(a) *Background* As previously explained, the Responsibility to Protect doctrine (RtoP) is a norm for foreign intervention. In the aftermath of the Rwandan genocide, Kofi Annan (the Secretary General of the United Nations at the time) challenged the international community to avoid situations where it was “united but ineffective” in responding to the life and death needs of foreign populations when faced with such things as deprivation of food and water and violence against the person (Wheeler, 2005, p. 3). The International Commission on Intervention and State Sovereignty (ICISS) was established by the Canadian Government as a response to Annan’s suggestion that consensus on a global ‘humanitarian intervention’ doctrine was necessary. RtoP was developed by this commission in response to overwhelming international consensus that such a doctrine was necessary for the future of humanity.

The aim of RtoP was to establish effective guidelines for future military interventions. It specifies that the international community has a responsibility to intervene into a sovereign state if there is a collective decision that individuals are at risk due to genocide, human rights abuses, humanitarian emergency or war crimes (ICISS, 2001). When originally discussed, natural disasters were considered for inclusion. However, they were left out of the final doctrine (and the resulting norm) because it was not possible to garner sufficient political support for its inclusion. International consensus and the eventual adoption of RtoP were only possible because it

restricted the type of emergencies in which RtoP would be triggered (Cohen, 2008). Consequently, natural disasters were purposefully left out.

Some experts have even tried to make the case that invoking RtoP to justify interventions in natural disaster situations is inappropriate (Evans, 2008; Thakur, 2008; International Coalition for the Responsibility to Protect, 2008). Casualties of earthquakes, tsunamis, volcanoes, etc. were considered simply “death caused by natural disasters” and did not require any additional support (Thakur, 2008). Furthermore, it is claimed that natural disaster intervention would make intervention for genocide and crimes against humanity more difficult (Evans, 2008).

(b) *Process, priorities and delivery* The conditions under which the RtoP doctrine justifies the use of force have to do with process, priorities, and delivery (ICISS, 2001, pp. 69-70). As for process, the ICISS stressed that any intervention must reflect a collective responsibility to protect. Collective responsibility means the international community must come together and agree to take action. Each party then bears a portion of the responsibility for intervening and for the consequences of the intervention. (This hints at both the acceptance of the universality of human rights and the idea that a right authority must authorize this type of intervention.) Focus on collective responsibility is intended to avoid actual or perceived unilateral action and the potential that it is used merely to further the ends of the intervening agent. Airstrikes organized by the US only or Russia only, for example, would likely represent the interests of one country only. There would be limited debate and assessment of whether intervening in a given scenario would be a just intervention and therefore would not represent a collective responsibility.

RtoP is intended to provide the official means necessary to enable the international community to react to large scale human abuse. In addition to being reactive, society must also have plans which prevent the occurrence of atrocities. Hence, the Responsibility to Protect was established alongside the responsibility to prevent and to rebuild (UN General Assembly, 2009, p. 2). In particular circumstances prevention will no longer be possible. At that point, and when all other options of engagement with the unfriendly state have been exhausted, delivery of assistance through armed intervention may be deemed appropriate. RtoP sets out the standards against which reacting to large scale human abuse by way of an intervention is judged.

(c) *RtoP in practice* The RtoP is a moral responsibility of states and not a legally binding international mandate. While not explicit in Chapter VII of the UN Charter, the RtoP is often argued for (and thus endorsed by the international community) through the invocation of the Charter. At the same time, implementation of Chapter VII of the UN Charter requires vast international consensus and hence is rarely utilized. Additionally, the 2005 World Summit Outcome document, accepted by the UN General Assembly, formally established this norm of international response for the international community (UN General Assembly, 2005).

Both Chapter VII of the UN Declaration and RtoP (or something similar) doctrine highlight the need for coordination when intervening. By intervening under the auspices of RtoP, interveners are assuring the international community's operations will be carried out in coordination, or at least in consultation, with global policy makers. This helps to justify that the intervention has a right intention – it is not being done under false or self-serving pretences. Additionally, the interveners are stating

that the intervention is being carried out to protect and not to dominate a foreign population.

Furthermore, invoking RtoP requires precise justifications that the situation has escalated to such a point that military intervention is the only option left. Hence, RtoP creates a policy and supports intervention in line with just war conditions. Luban offers a summative three conditions for intervention under the Responsibility to Protect:

1. "...it must be an extraordinary remedy, chosen in response to grave human rights abuses that cannot be ended by diplomatic means
2. ...interventions should be approved by a recognized international authority acting in accordance with reasonably just international laws
3. ...intervention must be conducted by effective and morally permissible means" (Luban, 1980, p. 23).

These are consistent with Just War Theory in that there must be a just cause, right intent, right authority, and must be based on the re-establishment of international peace and security. However, by invoking RtoP, policymakers and interveners are prioritizing human rights abuses as justification for intervention.

In sum, RtoP is an accepted norm of intervention. However, by promoting military intervention, RtoP normatively conflicts with the assumption of non-intervention enshrined in the UN Declaration and made possible by the existence of the sovereign state system. This dichotomy suggests that non-intervention and intervention can exist in international norms simultaneously. Accordingly, there is

precedent for military intervention to protect humans as long as certain criteria of justice are met. RtoP is only used as a last resort. It can therefore be argued that Article 41 leaves space for engaging with RtoP in situations where all other non-military options for engagement have been exhausted (see Section 3.2.2).⁸⁷

I have here discussed RtoP in order to show that interventions to save humans in a crisis have been debated at high levels of international governance and RtoP has been found to be a necessary policy. I am not including discussion of RtoP here in order to argue that natural disasters should be included in the list of emergencies which trigger RtoP. Indeed, the exclusion of natural disasters as a trigger for intervention in RtoP ensures that peacekeeping operations for genocide, humanitarian emergencies, human rights abuses and war crimes will continue to receive at least some support by the international community. However, natural disasters do need their own policy which establishes criteria for a just intervention. In my argument of Chapter 7, RtoP will serve as a background and provide support for the idea that intervention as a natural disaster response is justifiable.

5.3 Conclusion

In this chapter, I have provided analysis of intervention policy as it currently exists. I have defined intervention and made the distinction between just and unjust interventions. I then explained that response to natural disasters is strictly disaster relief and does not involve intervention, despite the possible use of military forces to

⁸⁷ Here I am establishing the basis for my argument in Chapter 8. There I make the case that the conditions under which an intervention for natural disaster response are in line with the conditions set out for an intervention during conflict-related situations.

deliver assistance. I also explained general issues which any intervention will have to take into account.

In the final section of this chapter I explained the two traditional frameworks for understanding when interventions are just – Just War Theory and the Responsibility to Protect. These normative frameworks provide a base from which intervention policy for natural disaster scenarios can be built in the following chapters. My goal in doing so was to provide an outline of the existing intervention policies available to responders and show that natural disasters are purposely not included. In the next chapter I make my argument for why intervention policy for natural disasters is appropriate and necessary.

CHAPTER 6: ARGUMENTS FOR NATURAL DISASTER INTERVENTION POLICY

In Chapter 5, I discussed the current norms of intervention. I explained that intervention is a possible means of international response when there is drastic risk to human life or when international peace and security is threatened. However, current norms of intervention only count genocide, large scale human rights abuse, humanitarian emergencies and war crimes as risks that will trigger intervention. Hence the caveat to the intervention norm is that it is only permissible in four situations; natural disasters are specifically excluded. Accordingly, natural disaster military intervention is impermissible according to current standards. Thus, natural disaster military intervention does not occur and policy to support such interventions does not exist.

In this chapter, I will show that interventions in natural disasters scenarios are morally permissible and morally required in some cases. Because of this, international natural disaster intervention policy that addresses these moral requirements should be developed. For the purposes of making this argument, I will use the Cyclone Nargis case study from Section 2.6.

In Section 6.1, I explain what the current international policies of intervention would say about intervening in the Cyclone Nargis scenario, when a government is unwilling to respond to its own domestic disaster. I carry out the same analysis for when a government is unable to respond and/or allow foreign assistance in in the second half of that section. In Section 6.2 I outline problems with the status quo and how current international laws and norms do not universally account for the rights of humans. In Section 6.3, I explain that given my analysis of the human right to welfare

and international laws and norms, intervention is actually an appropriate response method to natural disasters. I proceed with this argument by explaining once again why the human right to welfare is important, how it should apply in natural disaster scenarios and finally, why an intervention should be possible on these grounds.

Before discussing the current laws and standards that applied to Cyclone Nargis I will first remind my reader of the circumstances of this particular natural disaster. In 2008 a Category 4 Cyclone struck Myanmar, which destroyed 20,000 homes trigger mass homelessness. With at least 7,000 dead or missing NGOs based in the country desperately tried to provide aid to those without food and medical care. As supplies dwindled NGOs like the Red Cross attempted to reach out to international partners for backfilling of stockpiles. However, the Generals ruling Myanmar at the time restricted the movement of the NGOs and rejected all international assistance. The NGOs were obviously hindered from providing assistance to the Burmese people. That would have been bad enough but the Generals themselves were not delivering aid to citizens. Only after extensive negotiation were foreign counterparts able to persuade the Generals to allow necessary supplies into the country. (See Section 2.6 for more details.)

6.1 Current Laws and Standards

There are various laws and norms of the international community which dictate how the international community should act when natural disaster scenarios overwhelm national capacity to respond. Using Cyclone Nargis as an example of this reality, I will first discuss the laws which apply to governments unwilling to request/consent to assistance as happened during the Cyclone Nargis response. Second I will discuss

the laws and norms that would apply in a similar disaster scenario but where government officials are simply unable to request/consent to assistance from the international community. I will outline the problems with accepting these laws and norms as they currently exist in Section 6.2.

First, according to the current laws and norms, intervention for natural disaster relief is not allowed in situations in which a government is unwilling to support its citizens or to offer consent to international responders. The United Nations Charter provides the clearest reasons against interventions in these cases. According to Chapter VII of the Charter, force can only be used in situations that constitute a threat to international peace. Likewise Article 2(7) stipulates that nothing in the Charter allows for intervention into the domestic affairs of another state (Massingham, 2009, p. 812). Notably, a natural disaster intervention norm which accounts for the stipulations of the UN Charter yet allows for intervention – like the norm of RtoP – does not exist. Instead, the rules outlined by the Charter set a precedent and deter any interventions of the kind suggested in this section. When applied to a Cyclone Nargis situation, those who argue that intervention is inappropriate could argue that any use of force would violate the international law.

Recent cases put before the International Court of Justice (ICJ) support these observations. The Nicaragua Case (1986), for example, found in favour of Nicaragua that the US had interfered in internal state matters by arming and aiding military efforts against the elected Nicaraguan government. The US saw the new government as a totalitarian threat to peace and security in the Americas (Peace, 2010). The argument of ‘collective self-defense’ made by the US Government was

rejected by the ICJ (Case Concerning the Military and Paramilitary Activities in and against Nicaragua, 1986).

Furthermore, RtoP cannot be used to justify intervention in natural disaster cases because none of the doctrine's conditions necessitating intervention have been met. The government of Myanmar did not commit genocide and accordingly there is no threat to international peace and security. There is, therefore, no reason to invoke RtoP (see Section 6.2.4). Remember, natural disasters are purposely excluded from RtoP because they would require political will beyond that garnered in the original discussions and because adding relief for natural disasters to the list of triggers for RtoP would be too onerous for the interveners.

In sum, if we take current doctrine, the situation of those who have been affected by a Cyclone Nargis situation is not grounds for intervention according to international standards. Action by the international community is not allowed because none of the accepted grounds for intervention – genocide, large scale human rights abuse, humanitarian emergencies, disruptions to international peace and security – have been met.

I move now to discussion of a case where instead of being unwilling to respond a national government is unable to respond. We can think about something like Haiti where the government is struggling to respond to the needs of its own people even before a natural disaster. (In Section 6.2 I argue that the lack of support to those affected as a result of an inability to respond (as opposed to a lack of will) still requires intervention on moral grounds; this is not the legal or normative standard.)

Consider here that the Haitian government cannot logistically and operationally provide for the needs of its citizens.⁸⁸ I am purposely ignoring national laws and policies on how to respond to a natural disaster. I am assuming that an inability to respond means that response must automatically be taken care of by some other (non-national) authority.

According to UNGA Resolution 46/182, a national government has a primary duty to its citizens to provide for “the initiation, organization, coordination, and implementation of humanitarian assistance within its territory” in the event of a natural disaster (United Nations General Assembly, 1991). Also, according to international human rights law (see Section 5.2), a national government has a duty to provide the basic goods that are essential for survival. When a national government is unable to provide the essentials to its affected citizens, it is then required to request assistance from the international community (Harper, 2009).

In this situation, where the delivery of those items which come under the scope of the human right to welfare is in question, there is a role for the international community. At the very least, the international community has a duty to support a national government where possible (see Section 5.2) (United Nations General Assembly, 1991). The international community has established Guidelines intended to minimize regulatory issues involved with the integration of foreign assistance into a domestic disaster (UN General Assembly Economic and Social Council, 2003). Likewise, the international community works to establish teams available for deployment should a national government require such assistance (UN General

⁸⁸ It is important to note, here, that while laws are firm, they are not always interpreted in the same way. The complexity of disaster scenarios and conflict means that each emergency is judged on its own circumstances set against the backdrop of the period of time in which it is occurring.

Assembly Economic and Social Council, 2003). The re-establishment of the national government apparatus is paramount to appropriate national disaster response as is supporting the human rights of those affected. Accordingly, a “swift return to law and order” will help facilitate national adherence to their duties to those affected as mandated by the Universal Declaration of Human Rights (Harper, 2009, p. 28). In sum, the international community is at least operationally prepared to provide the requested assistance to the affected country should such assistance be requested.

Here I am assuming that the government is unable to request assistance even if the need for this assistance still exists. The re-establishment of law and order and the support to human rights assumes that aid agencies will be working in concert with, and with the consent of, the national government (Harper, 2009). However, without a request for assistance, there is no operational or legal mechanism through which the international community could respond. Even if the political will for supporting disaster response existed in this scenario, there would be no way for the international community to act without the explicit consent of the national government. This is the central problem of the current standards: explicit consent is required despite the fact that national and local institutions may have been destroyed or the official decision makers may have perished in the disaster.

6.2 Problems with the Status Quo

In this section, I will explain problems with the status quo of laws and provisions available for post-natural disaster intervention. I will analyse these legal and normative practices which guide disaster relief operations and will suggest ways in which the moral shortcomings of such practices stand in the way of effective

provision of post-natural disaster assistance. The issues to be discussed include the non-binding nature of international law, the standard procedures which are only utilized when consent is available, assumptions that natural disaster assistance will always be delivered in 'times of peace', and ultimately the lack of an effective mechanism for intervention on behalf of suffering humans.

First, the relevant laws and standards on the provision of humanitarian relief which guide the international community are non-binding. For example, the 2006 *Interagency Standing Committee Operational Guidelines on Human Rights and Natural Disasters* and the 1998 *Guiding Principles on Internal Displacement* set out the rights of those affected by a disaster and guidance for those who have the corresponding duties to deliver on these rights at the national level. However, there is no mechanism which requires (with risk of punishment) a state to uphold either its human rights obligations or its duties to provide for its citizens in the aftermath of a natural disaster in line with these protocols. Additionally, there is no legal requirement to adhere to these guidelines (Harper, 2009, p. 26). With no legal requirement, and no international doctrine or norm for the enforcement of such duties in the event of a natural disaster, states are not bound to provide natural disaster relief.

Second, there are standards and operating procedures which are triggered should humanitarian relief be required but only when a government has consented. Humanitarian relief is normally facilitated through the Undersecretary General of the UN Office for the Coordination of Humanitarian Affairs, also known as the Emergency Relief Coordinator, who obtains consent from the affected government and negotiates operational requirements and security plans. When consent has been

granted the delivery of assistance will be done in line with the principles of neutrality, impartiality and independence (as per Security Resolution 1894).⁸⁹ This ensures that those delivering the aid as well as those receiving it can do so in relative safety (UNOCHA, 2014).

However, these rules are problematic because the delivery of relief requires that the affected country has consented. This is despite the normative position that “humanitarian action should be based on assessed need and provided to all persons affected by the natural disaster without adverse distinction of any kind other than that of different needs” (IASC Principle B.1.2) (Harper, 2009, p. 36). Indeed, the international community maintains that all persons affected by a natural disaster should receive equal assistance without distinction. However, the international community is not prepared to officially prioritize those needs over the sovereign right of a national government to consent to assistance. So, laws, policies or mechanisms for intervention that would govern situations in which a government is unable to provide assistance to its people and are, at the same time, unable to provide consent for the international community’s involvement, do not currently exist.

Third, the status quo of natural disaster relief assumes the conditions set out in the Oslo Guidelines and hence military force will only be used for natural emergencies during “times of peace” (Multinational, 2007). Intervention without consent of the

⁸⁹ Yet even the principles of neutrality, impartiality and independence may create a normative constraint to the provision of assistance in situations where a national government has not specifically requested/consented to international assistance. The Geneva Conventions of 1949 and Additional Protocol I of 1977 set out the rules associated with assistance to those fighting in, affected by or providing assistance in an armed conflict (ICRC, 1977). Adhering to the principles of neutrality, impartiality and independence requires a would-be intervener to abstain from intervening in conflict situations when consent cannot be garnered. Hence, aid delivered without national consent will, necessarily, bypass a national government.

affected government would thus be paramount to an invasion.⁹⁰ As it stands, then, current international doctrine suggests that there will simply not be a situation in which a natural disaster requires assistance in a non-peaceful environment.⁹¹

If a national government has consented to assistance then of course the acceptance and integration of foreign military assets into a domestic response will be done peacefully. However, this 'peace time' thinking ignores Myanmar-type situations (or where a government has been completely destroyed) where consent to assistance is not forthcoming but the assistance is still required in support of the human right to welfare. If assistance was forced on the Myanmar government in those early days it would have been without the consent of a national government and thus would have bypassed (indeed, ignored) the national government. This intervention would have been met with force and interveners would have had to respond with force; hence a military component to intervention is necessary.

⁹⁰ See Sections 3.3.3, 3.3.4 and 7.2.1 for discussion on how militaries are not perceived as neutral. Assistance in general can be delivered neutrally. The Red Cross, for example, maintains neutrality as one of its fundamental principles (IFRC, 2017). However, the Red Cross seeks consent from the affected country before entering and delivering their service. Consider, though, that an intervention carried out without the consent of the affected country and with the resources of another country may meet with hostility once in country. There will also likely be factions vying for power in the political vacuum that can sometimes occur after large scale natural hazards. Hence there are situations in which assistance delivered without the consent of an affected government will be considered an invasion of some sort. This means that an intervention may need to have a military component to protect the aid and those assisting as they will be seen as an enemy or similar.

⁹¹ This is notably different from cases of conflict and war. In failed state scenarios, for example, there are mechanisms for the delivery of assistance in conflict situations without national consent. Humanitarian emergencies, large scale human rights violations, etc. are likely scenarios in states that have 'failed'. Intervention on behalf of those suffering the effects of a conflict or humanitarian emergency may receive intervention assistance from the international community whether or not they have requested assistance and with the understanding that military support will be necessary (non-peaceful situations). In natural disaster scenarios, however, there is no mechanism for such intervention assistance. See Section 7.2.1 where I discuss as states unable to provide for the needs of those affected being seen as 'failed states'. This is important to note because if a national government is unable to provide assistance to its people in the aftermath of a natural disaster, and is unable to consent to assistance, a mechanism for providing assistance does not exist.

Now, the use of a military in this kind of situation are likely to have contributed to the debate in 2008 and ultimately formed part of the reason the international community did not intervene. I respond to these objections in Section 7.3. It is important here to note, though, that if an intervention (in support of human rights) is required it will be carried out *against* the will of the government (or proxy) and *for* the people affected.⁹² Would-be interveners would have taken the side in opposition to the Myanmar national government's authority (in unwilling cases at least). Taking sides means that the international community is no longer neutral and would need to utilize military force as peacekeepers in humanitarian emergencies do. Assistance delivered here would be offered to assist the people directly and does not defer to a national government for consent. Assumptions that such assistance will not require a military component are therefore problematic.

In making my argument I recognize that assistance delivered with force against the wishes of a non-consenting government or the wishes of those filling a post-disaster power vacuum may be ethically contentious and rails against the status quo of natural disaster relief. However, human rights are of a higher priority than national government consent and so action must be taken with force where necessary to assist affected populations directly.

⁹² This is not always the case in situations in which the government is unable to request assistance as inability to consent does not necessarily imply non-neutrality. There are situations, though, where the international community will be taking sides by delivering assistance and an intervention will not be neutral. Imagine a scenario in which a patient is unconscious, a court has ordered that doctors administer life-saving treatment without the patient's consent. If a relative of the patient refuses the procedure and the court order and then proceeds to get violent, police may be called in to enforce the ruling. Consider this example in the context of an intervention scenario. Imagine a national government is completely incapacitated and thus unable to consent to assistance. There are very real situations (Haitian gangs in the aftermath of the earthquake, for example) in which non-governmental groups are ready and willing to prevent external interference with force if necessary. The international community will thus need to use force to ensure safe delivery of assistance to those affected. I hold that this kind of forceful assistance delivery is not neutral as it will be done for an affected group in violation of another group's wishes. The international community will have taken sides and hence will not be neutral.

Indeed, and as I argue in this thesis, there must be a mechanism for providing assistance (with a military component) when a national government is unable to consent/ask for assistance (see Section 8.4.1 for further support of this argument). The moral requirement to uphold the duties associated with the human right to welfare (as established in Chapter 5) should thereby fall to the international community. Because of this I will argue in Chapter 7 that it is a moral imperative for assistance to be provided to those affected by a natural disaster regardless of whether consent has been officially granted. Furthermore, I will ultimately argue in Chapter 8 that there should be policies for natural disaster military intervention. Now, though, in the next section I make my argument for why the lack of current laws and standards regarding intervention for natural disasters when a government is unable or unwilling to respond is morally wrong.⁹³

6.3 Why We Should Intervene

In Chapter 3, I suggested that a re-development of policy for natural disasters is in fact necessary if we are going to address the operational lessons learned. Failures in leadership, distrust in civil society and an over-eager national military are consistent and universal problems in natural disaster scenarios. However, these will not be served by developing better national response plans alone. There are situations

⁹³ I recognize that the events described above do not qualify as genocide or a wilful violation of human rights law. As a consequence, we cannot commence an international intervention according to the doctrine of RtoP (see Sections 1.3.2 and 5.2 as well as Section 7.3.5 on why natural disasters are not included in RtoP). However, the RtoP doctrine should not be the only mechanism through which humans are saved from disastrous circumstances. In line with RtoP and other forms of intervention, though, there is a need for a military component to any non-neutral assistance. This will provide security for those attempting to deliver the assistance. It will also ensure that those surviving in the aftermath of a natural disaster are offered the same level of assistance from the international community as those suffering from human rights abuses more generally.

beyond those imagined by current response plans in which a national government will be unable or unwilling to respond to the needs of its people.

So, instead of relying on current response plans to provide all necessary assistance post-natural disaster, I argue that military intervention plans should be developed for when – not if – a national government is either unable or unwilling to deal with significant domestic disaster response problems. In these cases, a military intervention can act as a failsafe to ensure that adequate assistance is delivered to equally deserving humans. Taking the Cyclone Nargis case study above as an example, I will argue that when a government is unable or unwilling to provide assistance post-natural disaster a military intervention is in fact morally required. (In Chapter 8 I will discuss policy suggestions.) In order to make an argument for interventions in the relevant kind of natural disaster situations, in this section I will explain how points made about the human right to welfare in Chapter 4 and those made in Chapter 5 on current norms and laws of intervention made can be used to support the conclusion that international intervention is required in the relevant cases. Specifically, I argue in this section how the human right to welfare requires that we have a mechanism to decide whether to respond.

One of the central claims of this thesis is that an intervention is morally required when a government's inability or unwillingness to support its citizens threatens their welfare. When applied to natural disaster scenarios, the human right to welfare makes it so that any person impacted by a natural disaster is entitled to a certain level of welfare regardless of, and independent from, national government policies. Likewise, as a consequence of the right, there is a duty to ensure welfare. National political systems are able to understand what a local population will need in the

aftermath of a disaster and be able to implement any required forms of assistance (Shue, 1980, p. 142). National governments thus have first-order duties to provide for the needs (or rather the welfare) of those people affected by a natural disaster. However, as this is a human right to welfare issue and not a political or economic right (which is the sole obligation of a national government), the international community has second-order duties to provide for human welfare.

Throughout Section 6.3 I will synthesize the claims made throughout my thesis using the Myanmar case study as an example. I will use the human right to welfare as the basis for this argument. As Griffin explains: “there are some forms of aid that anyone well able to give them owes to anyone in great need of them” (2008, p. 182). When food, shelter and emergency medical care can be given in an emergency, they should be given. Accordingly, as members of the international community (and hence second-order duty-bearers), we must develop policy that not only recognizes the importance of welfare but ensures that the goods associated with the right are available to humans in need of those goods. So, as I will argue in this section, if a national government is not delivering on this duty in the aftermath of a natural disaster, intervention may be required.

I will first draw from Chapter 5 and remind the reader in Section 6.3.1 why the human right to welfare is so important. In Section 6.3.2 I will restate the three possible ways to ground the human right to welfare (from Section 5.3) and then argue that the human right to welfare would be violated in certain natural disaster scenarios if there was no military intervention carried out. In Section 6.3.3, I will argue that the human right to welfare morally requires intervention by the international community in the

aforementioned kinds of natural disaster scenarios. Finally, in Section 6.3.4 I will respond to possible criticisms of my argument.

6.3.1 Human right to welfare is important

So first, the human right to welfare is vitally important to our ability to function as autonomous agents. As I argued in Chapter 5, the human right to welfare is a right, it is universal, it sets minimum standards, and it also reflects a high priority moral norm. This right – just like all rights - has its right holders, addressees and a scope.

So, the humans affected are the right holders. They will need food and water as well as some sort of shelter in the aftermath of a natural hazard. Those affected are entitled to a basic minimum and can claim the required goods from their government. The state government has the corresponding duty to provide the minimum required by those in a disaster situation. With the national government unable or unwilling to support its citizens the normal addressee of the right (the state) fails to carry out its duty to the people. Those affected by the earthquake and tsunami will not be able to be autonomous agents and to have a decent human life if they do not have the basic means of survival.

I move now to explaining how the human right welfare grounded in our humanity further supports the argument for intervention. When the human right to welfare is grounded in our joint humanity – or rather that which makes us unique among sentient beings – it must be guaranteed to all humans, universally. Protection of our normative agency requires that we have necessary basic goods such as food, water, security and healthcare. Thus when basic goods are not ensured for all humans

universally and as the highest priority we can say that a person's rights are being violated.

It follows, then, that in order to be in line with the requirements of human rights, duty-bearers must ensure a basic minimum, universally, and as a high priority to all humans in need of that basic minimum (regardless of their level of pain or relationship with others). If humans in natural disaster scenarios do not have access to a basic minimum level of welfare we can say that their rights are being violated. This is cause for action on the part of the international community.

As I explained in Section 6.1.3, disaster relief is a mechanism for providing this basic minimum to those humans struggling to survive in the aftermath of a natural disaster. It follows that when offers of disaster relief are ignored, dismissed, or simply not supported a person's right to basic minimums may also be ignored or dismissed. Accordingly, some mechanism must be established which allows for the provision of a basic minimum in aftermath of a natural disaster. I now move to discussing the human right to welfare in the context of natural disaster scenarios specifically.

6.3.2 The human right to welfare in natural disaster scenarios

The universality of the human right to welfare during natural disasters has often been overlooked. Natural disasters create scenarios in which people cannot enjoy basic levels of well-being. In the Horn of Africa example (Section 2.4) the drought and recurrent flooding led to crop devastation and famine. The people affected by this natural disaster did not have a basic level of food provision. In Haiti (Section 2.2) community unrest and gang control of neighbourhoods meant constant security

problems for those affected by the earthquake. With this devastation, means of survival are compromised.

The people in the Horn of Africa and in Haiti had a human right to welfare before the natural disasters occurred. The people could still claim that right during the disaster and the duty-holders should still be responsible for providing those goods, regardless of the surrounding events. Likewise, the human right to welfare applies to those people affected by a natural disaster before and after a natural hazard occurs, just as it does to all humans. In accordance with the universality of the human right to welfare, I will argue in Section 7.4.2 that the provision of life saving and life-sustaining assistance during a natural disaster should be given universally to all those affected.

The level of need and the urgency with which welfare needs to be delivered are the only things that change from normal to disaster times. It is the case that natural disasters often cause chaos which disrupts the normal flow of basic provisions necessary for life. However, regardless of whether a state is experiencing relative calm or a natural disaster, the international community is obligated to support all humans with a sub-standard level of welfare (Deng, 2010, p. 255). (Also see Chapter 5.) A mechanism for swift and efficient delivery of the goods and services required for survival is therefore necessary in order to realise this moral obligation.

6.3.3 Intervention in support of welfare in natural disasters

I argue that intervention is an appropriate mechanism for the swift and efficient delivery of that which is required for survival in natural disaster scenarios. I base this

argument first on the fact that intervention is already used as such a mechanism in similar situations where people's lives are threatened. Second, the international community has a duty to intervene to restore the goods that come under the scope of the right to welfare to a population when the population is being deprived of welfare in non-natural disaster situations. Likewise, then, it has the same duty to provide welfare in natural disaster scenarios, with force if necessary.

First, intervention is used as a mechanism for providing the goods associated with the human right to welfare in humanitarian emergencies. In the aftermath of the peacekeeping mission in Kosovo, for example, Tony Blair went to the Commons to ask for additional support for the Kosovoan people under threat from Milosevic's dictatorial regime. He said:

“We must act: to save thousands of innocent men, women and children from humanitarian catastrophe, from death, barbarism and ethnic cleansing by a brutal dictatorship; to save the stability of the Balkan region, where we know chaos can engulf all of Europe” (Blair, 1999).

Blair thus argued that the intervention is required, first and foremost, because of a duty to save lives. Additionally, Blair suggested that action on behalf of those humans in the Balkans will maintain peace and security in Europe. Intervention is thus required in this situation to save humans affected by various forms of catastrophe and also to create a stable region.

As a result of this speech and diplomatic discussions at the time, the international community organized and launched a peacekeeping mission to the Balkans. It is therefore evident that the international community thinks that upholding human rights

and the resultant international peace and security are a good reason to intervene in this case.

Similarly, then, the international community should likewise be prepared to intervene to support the scope of the human right to welfare in natural disaster cases because they are ethically comparable cases. In the Myanmar case people were dying or at least suffering when assistance could have been provided. Just as Blair made the case that “we must act” in a conflict situation, I make the case that “we must act” to save those suffering a similar fate in a natural disaster.

Furthermore, in a conflict situation the rights of the human are already accounted for (see Section 6.2). If instead of an earthquake Myanmar faced a conflict situation and people were being displaced because of fighting, we would worry that their enjoyment of basic rights were hindered. The international community would not weigh whether different humans are worthy (morally) of different levels of support in a conflict situation. Then, it is at least reasonable to suggest that if human welfare is a concern in conflict situations it should be an equal concern in natural disaster scenarios. For just as humans are equally deserving of the goods associated with the human right to welfare no matter how it is grounded, humans are equally deserving of assistance no matter the type of emergency they face.

I have now explained that the type of emergency should have no bearing on whether an intervention commences. I turn now to discussing the role of force in natural disaster interventions. Since the Convention on the Prevention of Genocide, military intervention has been used to ensure that the human right to welfare, that which allows a person to continue living, is enjoyed by all. The human right to welfare is a

positive right in that it requires that the duty-bearer act so as to uphold life and well-being. Those affected by the tsunami in Sri Lanka, then, are owed action to provide the goods associated with their human right to welfare. If their government cannot or will not fulfil that duty, they are owed that duty by the international community, who must discharge it, even if an armed intervention is necessary.

Interventions of any current type are not carried out without first considering whether doing so is just. If we consider that intervening for conflict or humanitarian emergencies will be decided based on criteria of justice, then equally, a natural disaster intervention must be decided using similar criteria. The criteria of justice will necessarily involve whether the use of force is appropriate. Hence, a military intervention in the event of a natural disaster will require the application of similar criteria of justice to determine whether the use of force is appropriate. The decision to use force does not change the fact that there is a basic minimum owed to humans or that we in the international community have a duty to provide the goods associated with that right to welfare (Shue, 1980). Natural disaster (military) intervention is required to provide the goods associated with the human right to welfare when a national government is unable or unwilling to do so themselves.

And so, the human right to welfare is enough in itself to justify intervention. Ignoring basic human needs in the aftermath of a natural disaster denies an affected population the human right to welfare. Furthermore, if intervention is morally acceptable in a conflict situation to uphold the human right to welfare than it is morally required in a natural disaster to uphold the human right to welfare because the morally salient features are comparable in both cases.

6.3.4 Response to possible criticisms

Let me conclude this section by discussing two possible objections to my argument. The first objection is that if the human right to welfare can ground a case for military intervention it might imply that states ought to intervene militarily to address extreme poverty where the domestic government is not doing enough to alleviate the situation. Second, my argument for natural disaster intervention based on the human right to welfare might justify interventions where the domestic government has not done enough to prepare for a possible natural disaster. I will respond to each of these objections in turn.⁹⁴

Poverty is a structural issue, the alleviation of which will not be achieved by a one-time intervention by foreign governments. There are actions to be carried out to alleviate poverty before intervention should be considered.⁹⁵ Indeed, poverty requires cooperation across countries as well as the implementation of new economic and political policies nationally. Over time, possibly over decades, these changes will alleviate the burdens that contribute to endemic poverty. Following from the need for structural changes over time, poverty, while urgent, does not constitute an emergency situation which will result in imminent death or lack of all basic welfare as a natural disaster does.

As to the issue of under-preparedness, an unprepared government may still effectively respond and work towards restoring the goods associated with a basic

⁹⁴ I will discuss the doing vs allowing distinction and how it applies in natural disaster response situations in Section 7.2.2. I will address the main objections to a natural disaster intervention policy in Section 7.3.

⁹⁵ The requirement that intervention be a 'last resort' will be discussed in detail in Section 7.2.4.

level of welfare after a natural disaster, even if they are underprepared. If, however, underpreparing (or not preparing at all) results in a government being unable to provide assistance in the aftermath of a natural disaster then an intervention may be required. Alternatively, if a government has not adequately prepared for a disaster under current international norms, that government is able to ask the international community for help. At a minimum, the national government can consent to the delivery of assistance. If the government rejects assistance *and* they are not able to provide adequate assistance themselves then we are in the same situation as any other country unwilling to provide assistance to its people. In this way, underpreparedness may contribute to the need for an intervention but is not a trigger in itself.

6.4 Conclusion

In the first Section of this chapter I explained how the current laws and standards would play out in a natural disaster scenario. Using this information, in Section 6.2 I outlined problems with adhering to the status quo and what international laws and norms suggest should happen in the aftermath of a natural disaster.

In Section 6.3 I made my case as to why we should intervene in natural disaster scenarios based on the duties associated with the human right to welfare. I explained why the human right to welfare is important and why not intervening in natural disaster scenarios is immoral as it ignores the international community's responsibilities associated with the human right.

From this we are required to uphold the duties associated with the human right to welfare – even during natural disaster scenarios – and intervention is likewise morally required despite any claims that sovereignty should be observed. In the next chapter I set out the policy necessary for determining when natural disaster intervention is just based on Just War criteria as well as respond to possible objections to my central argument.

CHAPTER 7: NATURAL DISASTER INTERVENTION POLICY: PROCESS, CONDITIONS, CONSTRAINTS AND OBJECTIONS

In my thesis thus far I have argued that natural disaster intervention is required in certain situations. Despite the unlikelihood that political will can be rallied or the fact that responding to natural disasters around the world with interventions will be burdensome, natural disaster intervention policy must be created. Those humans owed assistance (see Chapter 5) may not get it without the creation of such policy. The type of intervention policy I argue for will reaffirm that the human right to welfare requires the international community to intervene in the relevant cases. Using the arguments made previously in this thesis, I set out the ethical framework and the moral justification required when countries and international organizations should intervene in response to human welfare issues in the aftermath of a natural disaster. I refer to this framework as *jus ad interventum*.

Before explaining my *jus ad interventum* in Section 7.2, I will first discuss prerequisites. In 7.1, I explain what national-level preparedness alone does not account for: preparedness as it is currently practiced does not include international preparedness to intervene should there be a need. Preparedness forms a large part of an ethical framework for the delivery of any assistance and it is the foundation upon which all domestic and international natural disaster response plans are developed. Hence, after explaining the role preparedness plays in the international community's planning I articulate my policy proposal in Section 7.2 which is based on the six criteria of Just War Theory (explained in Section 5.2). I will also discuss the possible implications of developing and using my proposal in 7.2.

With any new policy, especially one where the subject has been discussed in the past and dismissed as too difficult, there are obvious conditions and constraints. Section 7.3 will therefore be devoted to possible objections to intervention in natural disasters. These include imperialism, long-term effects of an intervention, dirty hands, demandingness, and the lack of political will. Finally, in Section 7.4, I conclude this chapter with a summary of my suggested framework for a natural disaster intervention policy.

7.1 Preparedness

In Section 2.1 I explained the relevance of preparedness to the disaster cycle (preparedness, response, recovery, repeat). In that section I discussed why preparedness measures must be undertaken by all governments so as to avoid large scale suffering of humans affected by a natural disaster. In this section, I return to discussion on the importance of preparedness so that the international community is prepared to intervene should a national government be unable or unwilling to provide for the needs of its people in the aftermath of a natural disaster. Here, however, I give two components to be included under the category of preparedness given the possibility that a natural disaster will exceed the domestic capacity to response. First, adequate national preparedness will normally utilize all available domestic capabilities. The preparedness I argue for should also involve planning for international disaster relief – how it should be requested and integrated – which will help avoid the need for a foreign intervention. Second, even the best prepared national governments may still be overwhelmed by events and be unable to consent to assistance. So, in addition to disaster relief preparedness, it is foreign response bodies which should prepare for a possible intervention. The difference between the

first and second types of preparedness discussed in this section is that the latter is international preparedness for the possibility of intervention post natural disaster when a domestic government is unable or unwilling to consent to necessary assistance.

7.1.1 National Preparedness and Domestic Capabilities

Domestic preparedness for natural disaster response includes planning for and putting measures in place before a natural disaster occurs. For example, preparedness planning may include initiatives to reduce water consumption when drought conditions threaten a community. It may also involve individual or local efforts to create shelter facilities or stock up on water. All of these are necessary (operationally and ethically) steps in creating effective disaster response should the need to respond arise. Accordingly, all countries usually develop preparedness plans for natural disaster response.

National response operations are quite often enough to adequately address the needs of those affected by a natural disaster. In the event that domestic stock piles and relief capacity are not enough to respond to a specific disaster, disaster relief is available. Disaster relief (see Section 5.1.3) is external (meaning foreign) assistance provided with the consent of the affected government.

In order to provide disaster relief, international organizations and bodies also carry out preparedness measures. For example, internationally responding urban search and rescue teams take part in regional exercises at regular intervals. These exercises allow teams to test their skills and abilities at all stages of the disaster

cycle as well as to get a sense of how plans should be improved in the event of future disasters (INSARAG, 2013; INSARAG, 2011). These foreign resources are still components of a properly prepared domestic disaster response as the USAR teams are assets that can be integrated upon request.

Additionally, individual countries have developed plans for the integration of foreign assistance where plans previously did not exist. For example, in the aftermath of Hurricane Katrina, the US Government developed plans and procedures for the integration of foreign assistance into domestic disaster response. These plans account for regulatory and border control issues that will likely occur during a natural disaster response where national responders are overwhelmed and foreign assets and personnel are required (DHS/FEMA, 2015). This plan, though, will only be used when the US Government chooses to use it and foreign responders must wait for a request and/or consent from the US Government to provide assistance.

Domestic preparedness which includes international support of this sort will necessarily include diplomacy and international coordination with multiple domestic and international agencies and the development of procedures for action (Harper, 2009). Diplomatic efforts to supplement prevention and preparedness plans are the key to bolstering domestic disaster response and integrating international disaster relief assistance. If the international community's support is necessary, all efforts should be made to negotiate the delivery of assistance in the aftermath of a natural disaster just as the Emergency Relief Coordinator's policies dictate (see Section 5.1.3). So, adequate national preparedness measures will account for operational readiness to respond to natural disasters using domestic resources.

7.1.2 Beyond the Best Laid Plans

At the same time, appropriate national preparedness should involve plans for the fact that foreign relief may be necessary and that integration of such assistance falls to the national government receiving the assistance. Developing domestic plans which respond to the needs of those affected and which account for the necessity of diplomatic discussions is also necessary for proper preparedness. As evidenced by lessons learned from previous disasters (including those discussed in Chapter 2), and by disaster relief plans in place (see Section 8.1.1), natural disaster assistance will be provided when a national government requests it or consents to offers made by foreign bodies. However, the international community has not prepared to address domestic lessons to learn (like those discussed in Chapter 3) in its disaster relief planning because there is the assumption that a national government will still be in charge of the disaster response. Instead, I argue that preparedness must also cover international preparedness to respond when a national government is unable to request/consent to assistance.

As mentioned in Section 2.1, adequate domestic preparedness may not be enough for appropriate assistance to reach those affected by a natural disaster. Instead, we need a new kind of international preparedness. In what follows I will first defend the need for international preparedness. I will then explain how this preparation will take into account the lessons learned of Chapter 3, namely problems associated with leadership, civil society and the role of the military.

First, I will defend the need for such international preparations in the first place. Politicians and laypeople will likely suggest that unsolicited, unwanted and resisted

international interventions have produced terrible consequences in the past and will likely cause similar consequences in the future. However, the long term consequences of preparing for a natural disaster intervention are only problematic if we intervene. For that reason, I will not address the long term consequences of the international community preparing for natural disaster intervention here. Other probable criticisms and my counter-arguments will be fully discussed in Section 7.3.2. For now I will simply say that whilst we do not have a system currently (and this may minimize the terrible consequences brought about by intervention), we risk maximizing the number of people left to die in the aftermath of a natural disaster when governments are unable or unwilling to respond. Preparing is thereby appropriate so that we can act on our duty to minimize for those suffering after a natural disaster the further loss of certain goods associated with a minimum level of welfare.

I now move to explaining what the international community should be prepared to address in the aftermath of a natural disaster where a national government is unable or unwilling to respond to the needs of its people. I made the case in Chapter 6 that there are situations in which a national government will be unable or unwilling to provide for the needs of its people. The international community must be prepared to coordinate the response in the event that a national government is not doing so.

In Chapter 3 I thematically set out lessons learned across five natural disaster scenarios discussed in Chapter 2. If the international community is to prepare to respond to national-level disasters, it must be prepared to address the lessons likely to occur. In saying this, the international community must prepare to address issues of leadership, the role of the military and civil society in the aftermath of a natural

disaster. In the rest of this section I will make the link between what happens in a domestically run natural disaster response (as outlined in Chapter 3) and what the international community must be prepared for should it intervene in a natural disaster.

So, in Section 3.1.2 I explained that domestic response plans need to address stagnant leadership amidst dynamic natural disaster scenarios. As Caney suggests, however, states may be incompetent, negligent, or simply not doing what they are supposed to do (2013, p. 155). In these cases, the international community must be prepared to address leadership and coordination issues associated with the integration of foreign assets into a domestic disaster response at both the national and international level. Currently, few countries have plans on how to integrate goods and services into a domestic disaster response with their consent (see Sections 3.1.2 and 8.1.1). Even fewer, if any, have continuity of operations plans which allow foreign relief to reach its citizens when it has been incapacitated.⁹⁶

Preparing for an international intervention policy in light of dynamic leadership problems will go some way to addressing this lesson at the international level. Creating, integrating, and testing plans for foreign intervention will ensure that international leaders are prepared for intervening. This will mean that foreign responders would likewise not rely on ‘what they know’ from previous responses (see Section 3.1.2). Instead, they will take steps to minimize the suffering of those

⁹⁶ The United States is one of only a select few countries who have developed a system for integrating international offers of assistance into domestic disaster operations. This assistance is expected from outside standing mutual aid agreements and will be consented to based on need (DHS/FEMA, 2015).

affected in line with international plans that account for leadership issues identified in domestic disasters.

To address the problem of leadership in natural disaster response, the international community should prepare in at least the following two ways. One, the international community should promote the development of continuity of operations plans at the domestic level. This will contribute to national preparedness. It will also ensure that there is a known mechanism for the delivery of assistance into which the international community can fit itself. Importantly, supporting the development of continuity planning, and ensuring its development will help to justify an intervention based on an inability/unwillingness of a national government to respond itself and that intervention is in fact the last resort option (see Section 7.2 for more).

Two, the international community should prepare its own plans for leading a disaster response should an intervention become necessary. Obtaining the right authority in line with the Just War principles (discussed in Section 7.2) will likely require that a system is developed by which that authority can be requested, granted, and acted upon. Operational preparation is an appropriate pre-planning activity for the international community to take up.

The second lesson learned which the international community must prepare for is the integration of civil society into disaster planning. Indeed, the international community must be prepared to engage with civil society during a natural disaster intervention. As discussed in Section 3.3.4, civil society contributes to the flourishing of society, improves governance processes and stabilizes political and economic practice. It is possible for the international community to build trust with international

civil society organizations ahead of a natural disaster. Plans and procedures which identify a place for non-profit groups, NGOs and private citizens acting on behalf of their friends and family are needed at all levels of response – domestic and international. The development of an intervention plan now, before it is required, leaves space for the development of relationships between the international community and civil society regarding what should happen in the event of an intervention.

Finally, there is a role for a military in natural disaster response as evidenced by scenarios in Section 3.3. There are important aspects of response that may best be served by a domestic military response. Likewise, international response bodies must be prepared to incorporate a military component into their activities. Whilst domestic and international militaries will have different capacities and different objectives, both organizations will need to adhere to the Oslo Guidelines and UNGA Resolution on the role of the military in emergency response.⁹⁷

The international community should prepare for a natural disaster intervention by getting buy-in from countries likely to contribute troops to such an effort. Once the scope of the military team is understood, the international community can then

⁹⁷ Domestic military response to a natural disaster can cause (and has done) concern regarding post response military takeover of government (see discussion of Pakistan's military response to the disaster in Section 2.3). This concern is magnified when we consider using foreign military forces to respond to a natural disaster. Doctors without Borders Executive Director Nicolas De Torrenté has argued that humanitarian assistance and national relief assistance are separate, and should remain separate, activities – especially when it comes to the use of military forces (DeTorrente, 2006). Humanitarian assistance, strictly speaking, should be neutral and impartial. On the other hand, a military intervention for natural disaster response as I argue for, much like interventions for genocide, are not intended to be neutral or impartial. The aid will likely be delivered against the wishes of a national government and thus may be seen as an act of war. Accordingly, an intervention for natural disaster response has the capacity to cause severe loss of life, damage to infrastructure, local and regional instability and economic disturbances as all war-fighting can cause. This is terrible and requires deep consideration before taking on such an intervention. This is also why the policy of a *ius ad interventum* as I set out in this chapter must necessarily be established so as to avoid the impact of unjustified and unqualified military force.

develop protocols and plans which assign roles and responsibilities to different contributing militaries in line with the Oslo Guidelines. Finally, preparing for the use of such military force in the aftermath of a natural disaster will also require testing these plans and checking that mechanisms put in place will work in real-world scenarios as well as ensuring adherence to relevant aspects of the Oslo Guidelines.

In sum, I argue that international forces must prepare to intervene militarily. If policy for intervention is not established before a natural disaster, and then it becomes necessary, the international community will not be prepared to address national-level domestic lessons to learn. Likewise, if we do not discuss the international community's possible role and prepare for that role ahead of time, the international community will not be ready to address gaps in leadership, military and civil society. Most importantly, though, without proper preparedness international forces will not be ready to intervene justly and limit bloodshed and destruction normally caused by warfighting.

7.2 A New Policy for Natural Disaster Intervention

In the previous chapter, I made the case for why intervention is required in some natural disaster scenarios. I now offer a framework for the development of a natural disaster intervention policy, which provides the necessary conditions in which a natural disaster intervention would be justified. As with any decision to utilize military force, the international community must decide if certain criteria will be met and if, having met those criteria, an intervention should proceed.⁹⁸ In this section, I detail

⁹⁸ I recognize that it is a definite possibility that there will be long term damage to a country and further conflict may break out as a result of a natural disaster intervention. Consequences of such a military intervention as I argue for are discussed in Sections 7.2.7. In footnote 111 and Section 7.2.5 more broadly I explain why applying the just war criteria, to natural disaster intervention will minimize the

the criteria to be considered ahead of the decision to stage a natural disaster intervention when a national government is unable or unwilling to support the needs of its people.

To establish the criteria for intervention I borrow heavily from the Just War Theory (see Section 5.2.2) and adapt its criteria for the operational requirements of natural disasters. As before, each of the following conditions will be individually necessary and when all criteria have been met there is sufficient justification for intervention. While the just war criteria were developed in part for decision-making in going to war it has also been used as criteria for defending the innocent (Conces, 2001, p. 144). Hence its application to natural disaster scenarios is appropriate too.

In most natural disaster scenarios, a national government is able to respond to offers of assistance. Acceptance of those offers is usually based on both general need and political will. The response capacity of supranational bodies can therefore be integrated into a domestic disaster response based on need or will. As mentioned previously, national urban search and rescue teams may need supplementing by international teams with particular skills. Alternatively, as a political play, some assistance may be accepted so as not to seem ungrateful to political allies. Regardless, an acceptance of international assistance implies both willingness and an ability to interact with the international community. In these situations, intervention is unnecessary because a national government is willing and able to respond

poorly arranged and managed interventions of recent memory which might create a once-bitten-twice-shy type of response one might expect to hear from politicians or laypeople reading this thesis.

In Section 7.1.2 I made the argument that preparing for such an intervention will not cause this type of conflict and insecurity. By not preparing, though, we risk complete disarray and disordered response operations should an intervention end up being the decided mechanism of response.

themselves or integrate external assistance into the domestic response operation. The national government is fulfilling its first-order duties to its people.

However, when a government is unable or unwilling to provide for the needs of its people (as explained in Chapter 6) the duty to provide for the security and political rights of individuals as well as for human welfare still exists. Caney explains that there should be a 'back-up' duty-bearer to "fulfil the role that the original duty-bearer should have performed" (Caney, 2013, p. 155). I argued in Sections 4.2.2 and 6.3 that the second-order duty bearer, namely the international community, has a responsibility to provide for the goods associated with the human right to welfare as well as national and international security. Here, an intervention may be required to support the needs of those affected.⁹⁹

As we saw in the case of Myanmar's Cyclone Nargis, there is no precedent for the international community to act when a government is unable to react to a natural disaster. I argue that in situations like these the duty to respond may require the use of military assets. Assistance delivered in a political vacuum (i.e. Haiti) or against the wishes of a national government may be met with an opposing force. Using military personnel will provide safe working environments for aid workers. Additionally, assistance delivered without the official consent of the affected country goes against the norm of non-intervention. It may thus spark violence from the population or violence from remaining officials and members of the military. Accordingly, intervention which acts on second-order duties must be labelled as such – as an

⁹⁹ In other situations a government may be unwilling to consent to offers of assistance being delivered to their affected country for operational reasons. This denial of assistance may be appropriate if, for example, it is based on the concern that operational and logistical efforts will be overwhelmed by assets superfluous to need.

intervention – and must adhere to rules associated with an intervention if it is to be considered just.

So, in this section, I provide six conditions which must all be met in order for a natural disaster intervention to be just. It is important to note that these criteria assume the problematic nature of interventions in general and, at the same time, address the ethical issues supporting the interventions in the first place. Meeting these criteria will help to argue against any ethical objections to intervention (see Section 7.3). When I argue that there is a requirement to intervene in this chapter I focus mainly on the requirement to intervene to provide the goods associated with the human right to welfare. Human rights have a higher priority than all other types of rights and thus relying on the human right to welfare to justify an intervention policy is the simplest and clearest way to develop the *jus ad interventum* criteria.

7.2.1 Inability/Unwillingness of a Government to Respond Themselves

Is the national government able and willing to adequately respond to the natural disaster?

Currently, the default way of responding to a natural disaster is for a state to take care of its own disaster response. This is for operational reasons as outlined in the Oslo Guidelines and discussed in Chapter 3. Accordingly, all local, national and international preparedness and diplomatic efforts should be exhausted before we consider an intervention. To do otherwise would harm the response operations. Intervening without exhausting all domestic capacities and without seeking authorization from the affected government would also be unjust as it would be an ill-

considered interference. Additionally, it may unnecessarily undermine the sovereignty of the given state.

In order to qualify as a just intervention we must ensure that a government is actually unable or unwilling to accept assistance or engage in diplomatic discussions. Let us first consider a scenario in which a government is simply unwilling to accept assistance. The international community can decide if a government is 'unwilling' to provide assistance by assessing whether the violation of rights is systemic. Traditionally, decisions to engage in a humanitarian intervention are based on human rights abuses which are state-directed or based on tradition and custom (Conces, 2001, p. 139). If the human rights abuses are state-directed, the government in question is complicit and therefore actively participating in depriving citizens certain rights. When the human rights abuse is understood as customary, the offenses are carried out (possibly) by the government but, more importantly, are endemic in society. A coercive intervention, as I defend in this thesis, would be justified because any unwilling government is, by my definition, carrying out a state-directed plan to avoid international assistance even at the expense of its citizens.

International consensus on whether a government is 'unable' to consent to assistance will rely on information gathered at the time. The most straightforward way for the international community to determine this is to decide whether the national government possess traits of a 'failed state' (see footnote 31 in Section 3.2.2 and footnote 81 in Section 6.2): the military, police, civil service, the system of justice and leadership are all failing. A highly functioning state which is demonstrating characteristics of a failed state will clearly qualify as a state unable to respond to the needs of its people. In situations where a country demonstrates

characteristics of a failed state *before* the natural disaster, it is likely that an international intervention will be more contentious. If a humanitarian intervention was not carried out before a natural disaster, those arguing for a natural disaster intervention will need to explain how the situation has changed and thus why an intervention is necessary for natural disaster response specifically. This determination can be made through adherence to the following Just War criteria.

7.2.2 Just Cause ¹⁰⁰

Is there a just cause for intervention?

In this section I will discuss three different aspects of the just cause criterion. These criteria should be considered together to determine whether a just cause for intervening in the aftermath of a given natural disaster is just. These criteria include the genocide threshold and the distinction between killing and letting die.

The first just cause criterion I will discuss is the genocide threshold. For a humanitarian intervention for human rights abuses, there is something called the genocide threshold (See (Conces, 2001; United Nations, 1948). This threshold does not provide a specific number of people that need to die before an intervention is considered to have a just cause. Rather, the genocide threshold is a carefully weighed condition in which ‘a substantial part’ of a population is targeted for annihilation. This targeting must be racially or ethnically motivated or even may have to do with one group’s hegemonic desires over another group (The United States

¹⁰⁰ See Section 7.3.3 on Dirty Hands for discussion of killing vs letting die in the context of what the international community should do and what they are doing.

Holocaust Memorial Museum, n.d.). The just cause condition for humanitarian interventions will be satisfied if a population is targeted in this way.

Both proponents and opponents of intervention are likely to have problems with an unquantifiable threshold for a just cause. For proponents of intervention, the generally accepted genocide threshold at any given time may be too high thus allowing too many people to die before action is taken. Conversely, for opponents of intervention, the unquantifiable nature of the genocide threshold raises concerns that intervention will come too often. Even those countries that agree that natural disaster intervention should occur will have to deal with being called upon to intervene more often than they would like. Thus the genocide threshold may leave too much open to circumstances and require action from unwilling parties. This debate is not new, though, and will be addressed in Section 7.3.4.

I am not describing the genocide threshold here because I believe that mass death is the only just cause for an intervention. Instead the genocide threshold sets a precedent for not quantifying the number of affected people required before there is a just cause for an intervention. In this section I argue using the same logic: deprivation of basic goods in the aftermath of a natural disaster is a human rights abuse which results in large scale harm. It deprives peoples of, at a minimum, a dignified life and at worst, their actual lives. As I argued in Chapter 4, mass risk of death, mass homelessness, lack of access to clean water and malnutrition are enough to qualify as failures to respect the human right to welfare.

So, instead of invoking the genocide threshold in my list of criteria for just intervention, I argue that imminent threat to life and welfare on a mass scale likewise

qualifies as a just cause for intervention. The just cause for intervention in genocide scenarios is the imminent threat to human life on a massive scale. The cause of death during a genocide or humanitarian emergency – firing squad, gas chamber, or lack of food – should, however, be irrelevant; all represent large-scale suffering resulting in imminent death. All of these threats to full enjoyment of the human right to welfare.¹⁰¹ This means that the large scale threat to human life caused by deprivation of the goods associated with the human right to basic welfare constitute are equally a just cause for intervention in relevant natural disaster scenarios based on a violation of the human right to welfare.

Some will likely criticize my assumption that refusal of natural disaster assistance is a crime equal to that of genocide. Those critics can object to the equal badness of the deaths in two ways. One way is to argue that in genocide situations it is not the threat to human life that is the just cause for intervention. Instead, it is the harm the government causes by *killing* so many people.

The second way of objecting to my claim that refusal of assistance post-natural disaster and genocide are equal harms is to argue that in natural disaster situations a national government is *allowing* people to die rather than killing. Allowing could then be argued to be not as bad a harm as killing. So, when a national government *allows* its people to die the harm is not equal to that incurred by genocide. As a

¹⁰¹ Shue elaborates on this point that death due to starvation is completely unethical. “The fact, if it be a fact, that resulting starvation within India would be only intentionally allowed to occur, and not intentionally initiated, is of little consequence. If preventable starvation occurs as an effect of a decision not to prevent it, the starvation is caused by, among other things, the decision not to prevent it. Passive infanticide is still infanticide” (1980, p. 98). Indeed, if death from lack of basic necessities is preventable we have a moral obligation to prevent such death.

result, there is no just cause for intervention in natural disaster scenarios when a government is unwilling to provide assistance.¹⁰²

There are three ways for me to respond to these objections. I will first consider the claim that genocidal killing is worse than letting people die in the aftermath of a natural disaster. For this I will set out the distinction between killing and letting die. Second, I will suggest that instead of arguing whether an unwilling national government is killing or letting die, the creation of a barrier to aid is at least as bad as letting people die. Finally, I will use discussion of barriers to aid to argue that the intention of an unwilling government – whether killing or creating a barrier – has the same purpose and thus are equally as bad for those affected. In this way, I will argue that killing by means of genocide and creating a barrier to aid post natural disaster are equal harms that establish the same just cause for intervention.

My first point is in response to the first objection given above – that the harm involved in genocide is the killing of humans, not the mass threat to human life. In responding to this objection I must first explain the moral distinction between killing and letting die (also understood as the relationship between doing and allowing). Fiona Woollard provides an overview of the doing and allowing distinction which can be applied in the natural disaster/genocide equivalence debate which I will engage with here (Woollard, 2012). For Philippa Foot, the moral distinction between killing and letting die is a matter of sequence: if my agency triggered a sequence of events than I am morally accountable for any harm caused (Woollard, 2012, pp. 449-450; Foot, 2002). So, if I push a rock off of a cliff and it kills someone below, I have *killed*

¹⁰² Unable national governments should be understood more along the lines of failed states as discussed in 7.2.1.

by triggering a sequence of events (the push, the fall, the landing) that resulted in someone's death.

A natural disaster, on the other hand, is not triggered by human agency. Using that logic, the sequence of events that resulted in certain people's deaths cannot be understood as *killing*. Instead, any actions which deprive a person of necessary welfare goods in this situation is simply allowing death. Thus, because a natural disaster was not triggered by human agency those people responding or not responding cannot be said to be *killing* – they did not trigger the sequence of events. A government here would simply be letting its people die.

Alternatively, Hasner's take on the doing vs allowing debate offers evidence that removal of a barrier is an act of doing a certain kind of harm (1999). Removing a rock that would have stopped a person falling all the way to the bottom is still an action. Thus for Hasner removing a patient's life support machine is *doing* a harm. If applied to natural disaster response scenarios, removing basic goods available before the hazard may similarly be seen as 'doing' a harm, even if it is not killing per se.

Now, there may be disagreement on what counts as doing and what counts as allowing. However, there is general agreement that allowing is a lesser harm than doing. Accordingly, it can be argued that allowing people to die in situations where death is imminent is not as bad as the active killing in genocide situations. Whilst I can agree with this point, letting a large number of people die is still harmful. I therefore argue that killing and letting die on the scale in question is still harmful and represent equally just causes for intervention.

If, however, this response is not persuasive for certain critics, I offer my second response to the objections stated previously. Specifically, a government unwilling to assist its people or consent to assistance may indeed not be killing. However, they are creating a barrier to assistance which is a harm that is perhaps at least almost equal to that of killing.

Hasner suggests that there is a third type of harm (doing and allowing being the other two) which he labels “preventing people from being saved” (1999).¹⁰³ He argues that preventing assistance from reaching those in need is an act of allowing harm only. Similar to Foot’s discussion of a sequence of events qualifying the type of harm, Hasner explains that preventing someone from having their life saved depends on a sequence of events, a reasonable understanding of possible outcomes, and motives behind any such actions that figure into an agent’s actions. He therefore argues that preventing someone from obtaining the benefit of having their life saved is a distinctly different type of harm.

That being said, both types of harm are what he calls *lethal* harms in that they end in death. In this way, both are morally objectionable to the same degree because they result in a particular death (Hasner, 1999, pp. 284-285). So, because both genocide and the prevention of having one’s life saved in the aftermath of a natural disaster

¹⁰³ This distinction between killing, letting die and preventing people from being saved is also helpful in explaining why my argument is not applicable to intervening in situations of extreme poverty. Hasner explains that intervening to save someone from a *particular* death (in my argument, death as an outcome of a natural disaster) is a benefit to that person because it is a preventative harm (1999). By contrast, feeding those in extreme poverty will not prevent a person from suffering any harm of that type. Whilst the people suffering both incidents are experiencing harm, these are different harms just as killing and letting die are different (though both are still harms). So, whilst not supporting those in poverty is an unethical harm it is a different type of harm than I discuss in this thesis.

are lethal harms resulting in death they are prima facie objectionable and can be considered moral equivalents (Hasner, 1999).¹⁰⁴

So, my point in this section is not to argue for intervention on the grounds of human rights abuses. That argument was made in the previous chapter. Rather, I am arguing that the crimes being committed are similar and thus the responsibility of the international community to respond is likewise similar to that of other large scale human rights abuses. Deprivation of basic welfare in the aftermath thus exists as a just cause for intervention in the same way that genocide is a just cause for intervention.¹⁰⁵

¹⁰⁴ Beyond this distinction between doing and allowing, a harm occurs where barriers to international assistance are created by a national government. For a person being imprisoned and starved there is a sequence of events that were initiated by an agent and thus acts such as these can be seen as *doing* harm. In cases of natural disasters, an agent did not trigger the sequence of events that resulted in people's low welfare. Hence on Foot's analysis preventing aid would be *allowing* harm. Woollard argues, though, that Foot's analysis does not go far enough and must account for situations in which preventing aid *sustains* harm (Woollard, 2012, p. 455). Preventing harm is very rarely understood as *doing* harm, but the idea of *sustaining* harm does suggest that there is a moral difference between allowing harm and preventing someone from being saved that needs to be explored.

¹⁰⁵ In describing the phases of a natural disaster, I explained that they should be understood as functionally and not temporally bound (See Section 2.1). Likewise, we must understand that a just cause will likely involve a series of events, not necessarily a specific number of events. It should also be noted that the possibility of imminent death is time sensitive. When an intervention is discussed at the international level, whether acting quickly (and therefore carrying out a coercive intervention) will save lives comes into question (Conces, 2001, p. 142). In natural disaster scenarios, acting quickly is particularly relevant and hence it is appropriate to recognize the possible need for an intervention before a certain natural disaster requires it. For example, in the event of a natural disaster, the International Search and Rescue Advisory Group (INSARAG) will respond to a request for assistance within 32 hours of a country's posting a disaster need (International Search and Rescue Advisory Group, 2011, p. 34). In situations where a natural disaster is expected to require international assistance, search and rescue groups are preparing ahead of time. INSARAG as well as other internationally responding organizations and bodies are acutely aware of the fact that every minute counts in natural disaster response and the quicker the response, the more lives will be saved. People need not be on the brink of death for there to be a just cause for intervention. Simply, the expectation that a situation will continue to deteriorate if assistance is not addressed quickly is enough to qualify as a just cause for intervention.

Here, I have explained that relevant information at the time, including number of deaths, cause of death, previous conditions, political will, international stability, etc. will all be considered at the time of the natural disaster to determine whether there is a just cause for intervention. Discussions amongst international officials will use this information to decide whether the type and extent of the threat to welfare that exists constitutes a just cause for intervention. As I have explained, whether a government has purposefully killed or simply allowed its people to die is irrelevant when determining if there is a just cause for intervention. Even without a precise set death threshold, we must at least hold that at some point mass death due to natural disaster requires and is a just cause for an intervention. That is not the current norm.

7.2.3 Proportionality

Will an intervention represent a proportional response to the non-assistance delivered to those affected?

According to the principles of the Just War Theory, proportionality establishes the quantifiable restrictions on an intervention – how many resources to assign to the operation, how long the interveners should remain in the country, etc. (See Section 6.2.2 for more discussion on proportionality.) Proportionality is best understood in terms of whether we should obtain a relevant good given the burdens involved – in terms of whether something sufficiently good comes out of otherwise ‘bad’ actions. The ‘relevant good’ of a natural disaster intervention would be the enjoyment of the human right to welfare (Dobos, 2012, pp. 49-50). Enjoyment of the human right to welfare necessarily includes the avoidance of suffering and death.

The possible burdens include the detrimental long term effects of an intervention, specifically, dependence on foreign aid. There is also the effect an intervention will have on the lives of the interveners themselves as well as the socio-economic impact an intervention will have on the domestic population of the intervening country. All of these issues should be weighed to determine if intervening is a proportional response.

Furthermore, proportionality requires that we adjust the means to the ends desired (Walzer, 2006, pp. 119-120). So, if the goal of an intervention is to bring about a stable peace post-conflict, we must ensure that the way we go about this will result in just that. Israel, for example, has been criticized for its disproportionate response to Palestine (Watt, 2014). Palestinians use shoulder mounted rockets to attack Israel whereas Israel maintains a huge army and threatens the use of nuclear weapons. The shoulder mounted rockets do not pose a significant threat to the lives and livelihoods of Israelis. Israel aims at a peaceful existence and will do whatever it takes to create that peace. The negatives, and hence the disproportionate aspect of Israel's response to Palestinian aggression, includes the high death rate amongst Palestinians as well as the destruction of buildings, livelihood and places of cultural relevance. Israel's response to Palestinian attacks is hence reasonably understood as a disproportionate response.

So, let's consider what a disproportionate natural disaster intervention would be like. Consider a thunderstorm which creates localized flooding and some damage to the basements of houses in the affected area. This natural disaster hardly requires foreign military intervention, regardless of whether a national government is helping those affected. To send military forces in response to such a storm would be

completely disproportionate to the needs of those affected. This would be an unjust intervention because an intervention is not required operationally to re-establish the area and would not do any good for those affected. A small scale natural disaster as the one described does not demonstrate a purposeful and consistent abuse of human rights even if people have died because of the storm or the subsequent floods. Storms, like all natural disasters, have the capacity to destroy lives and livelihoods but this does not mean that an intervention would be a proportionate, and thus a just, response.

Furthermore, an intervention would be unjust in this small scale natural disaster situation because it would overwhelm national capacities. A foreign military presence in a small area coping with a normal disaster will likely take supplies away from those affected, hinder a community's ability to re-establish itself post-disaster, and undermine people's ability to recover post-disaster. National responders, even with the best preparedness possible, may not be able to support every person affected but this does not mean that an intervention is required.

And so, proportionality is a necessary criterion for deciding whether to intervene in a natural disaster scenario. A proportionate response will be carried out in response to an abuse of the human right to welfare where the possible benefits of doing so outweigh the possible negatives. Proportionality does not allow for an intervention in small scale disasters in which a severe risk to a population's life does not exist.

7.2.4 Last Resort¹⁰⁶

Have all other means of upholding the human's right to welfare in the face of a natural disaster, short of military intervention, been exhausted?

A military intervention for the purpose of delivering assistance post-natural disaster should always be a last resort. Going to war should be seen as a mechanism of politics to be used when all other mechanisms have failed (Clausewitz, 1997). Likewise, military intervention in natural disaster scenarios is so drastic a measure that it should be used only when there is absolutely no other way to restore those goods associated with the human right to welfare to those who have lost them. This is because the use of military force makes additional death and destruction an increased possibility.

Before we resort to military operations we should explore how best to make an offer of assistance. These offers can be made officially or unofficially depending on how the offer will be perceived by the officials of the country affected. Official offers can be made government to government or international body to government. In some cases political hostilities may make a government to government offer seem patronizing or imperialistic. International bodies may have less political baggage and hence be a better negotiator. Likewise, an unwilling government may fear political backlash. Alternatively, assistance can be offered through back channels and in

¹⁰⁶ Also, according to the Carnegie Commission on Preventing Deadly Conflicts, military interventions themselves may be the most appropriate mechanism for preventing conflict escalation and thus diplomatic discussions should assume the possibility of a military component (Fixdal & Smith, 1998, p. 302). Other scholars have found that the use of force may be ethically justified even if it is considered illegal under international law (Massingham, 2009, p. 825). Likewise, it is at least plausible to extract from this point that, all things being equal, a military intervention will prevent the escalation of a disaster full stop. It is for this reason that the use of force must be considered a viable response to the escalation of destruction in the event of a natural disaster.

coordination with political dealings. All of these options for delivery of assistance should be explored before resorting to military operations.

When the point of intervention is to support the lives and livelihoods of those whose human right to welfare is not being respected, the go-to answer cannot be to risk the lives of those intervening. Nor can the use of a military, possibly against the very civilians it is intent on protecting, be the first solution to the failings of a national government. Such an intervention would be an unjust use of force. When weighed against all other possible ways of supporting the human right to welfare, a military intervention must therefore only be considered when all other non-lethal forms of intervention have been exhausted.

With this in mind, we should not shy away from using force when the use of force is necessary either. Force should instead be used in conjunction with disaster assistance for two reasons. First, if the government was originally unwilling to accept assistance there is a risk that they may use force against the relief workers tied to the intervention. Those intervening should therefore be prepared to protect themselves from an assault and to protect the assistance being delivered. Second, if the intervention is being done in a country unable to provide consent for assistance, there is a significant possibility that armed groups or militias will have seized control in some areas. Interveners present in a natural disaster situation, and there on behalf of the people affected by a natural disaster, must be afforded every opportunity to protect themselves. By not recognizing that the use of force may be necessary, we are putting our responders in danger.

This does not necessarily mean that force should be used against the national government. Armed bands or simply desperate people (like the looters in New Orleans) may also fire on aid workers. Restrictions on the use of that force similar to the restrictions placed on peacekeeping forces should of course apply. UN Peacekeepers are ordered only to use force in self-defence. The use of force is meant as protection for interveners and as a shield for the assistance being delivered (United Nations, 2015).¹⁰⁷ Likewise, the use of force in a natural disaster situation should only be used in self-defense.

Furthermore, last resort as a criterion for a just intervention helps to ensure that the use of force as an option has been thoroughly scrutinized and debated amongst members of the international community. This process of determining whether the use of force is necessary will allow the other just war principles to be explored. The delivery of assistance will then necessarily constitute a just intervention in line with proportionality, just cause and right intention.

In sum, military intervention should be a mechanism of last resort for the delivery of those objects of the human right to welfare necessary for survival. When considering the use of force, policy makers need to recognize that the assistance will no longer be seen as neutral and that some responders' lives may be lost. For this reason, we should never entertain this option until it is the only option left.

¹⁰⁷ The term used for this type of peacekeeping is 'robust peacekeeping'. Robust peacekeeping allows the use of force "to deter forceful attempts to disrupt the political process, protect civilians under imminent threat of physical attack, and/or assist the national authorities in maintaining law and order" (United Nations, 2015).

7.2.5 Right Authority

Who has the right authority to decide to intervene and who has the right authority to intervene?

When deciding whether to exercise the use of force policymakers must meet the right authority requirement. Right authority is a criterion for a just intervention because not all of those with the capacity to respond have the authority to respond. Corporations, NGOs and private citizens may all have the financial capacity, the know-how, or even the right intentions to make for a properly exercised intervention. However, in order to stop rogue actors international norms restrict the use of force to official government bodies.

More broadly the use of force is a central tenet of the state system and an authority only bestowed upon states and the international community as a coordinated mechanism of states.¹⁰⁸ Accordingly, implementation of Chapter VII of the UN Charter (which allows for international action) requires international consensus (see Section 3.2.2). Likewise, then, determining whether an intervention has a right authority will flow from appropriate bodies and from international consensus. There are thus two components to the right authority criterion: first, who has the right authority to decide to intervene and, second, who has the right authority to intervene.

Who has the right authority to decide?

¹⁰⁸ I argue that the act of intervening will be just if it meets the criteria set out in this chapter. I am not claiming that the intervention itself, once forces are present in the disaster area, will be just. This is why I refer to my policy as *jus ad interventum*. See the distinction between *jus ad bello* and *jus in bellum* in Walzer, *Just and Unjust Wars* for more details (Walzer, 2006).

There are two types of decision authority pertinent to the question of who has the *right* authority: legal and moral. I will begin with discussion of who has the legal authority, mandated by the international community, to decide when an intervention is justified. Any unilateral decision to intervene into the affairs of another state is to be discouraged in all scenarios.¹⁰⁹ The UN Security Council, for example, has the authority to authorize an intervention and override sovereignty when the members have come to a collective decision (Fixdal & Smith, 1998, p. 292). Once again, this authority was established by international consensus when the UN Charter was originally drawn up.

Unilateral intervention would surely be seen as an imperialist intervention and it would also lack the authority of the international community. With more stakeholders involved in the decision-making there will be more people (at least in the eyes of public opinion) responsible for the intervention. With this thus a proper system of checks and balances on the power of states is maintained.

In addition to a legal *right authority* to intervene, let us also consider who has the appropriate moral authority to decide that an intervention should occur. For an intervention to be moral it must be authorized multilaterally. As Walzer suggests, multilateral authorization lends moral legitimacy to an intervention as it will minimize the imperialist or selfish tendencies of individual states (1995, p. 63; 2002). A cosmopolitan approach to intervention would support the need for multilateral authorization. Indeed, Archibugi would suggest that an intervention should be

¹⁰⁹ Walzer has suggested that unilateral action may be morally acceptable in situations that require quick action (2006, p. 107; 1995; 2002). However, we have seen the fallout from unilateral action in such cases as Iraq and Afghanistan urgency and the lack of immediate alternatives cannot be relied upon for making the case for a just intervention.

decided by those without coercive power. He continues that an intervention should be carried out by those who may lose more from intervening than those on whose behalf the intervention was carried out: by a 'UN institution' and under the 'UN flag' (Archibugi, 2004). This will provide moral legitimacy to the intervention because the authority stems from institutionalised norms of cosmopolitan justice of who has the right authority. Additionally, answering to a body of one's peers will ensure that motivations are checked. The intervention can be decided based on moral, as opposed to simply political or economic, justifications. Thus the decision to elevate an operation from disaster relief to intervention should be made collectively by the international community.

Indeed, selfish intentions of individual states will likely exist at the forefront of negotiations. Slowly, though, Walzer argues that the needs of humanity (i.e. the moral reasons for intervention or rather the *just cause* for intervening as discussed in Section 7.2.2) will be one among many reasons for intervening (2002). Through multilateral negotiation, the needs of humanity will rise to the top of the list of reasons for intervention. These needs can then be acted upon through an intervention. The mission can thereby be seen as having been developed with the authority of the international community.

What institution should deploy during an intervention?

While the decision to intervene must be multilateral, the intervention itself need not be (though it can be) multilateral in order for the intervention to be considered to have the right authority. The institution that should deploy is the institution that can deploy quickest and with the authority of the international community.

Similar to decisions about who has the authority to decide to intervene, there are legal and moral components to the *right authority* criterion for intervention. Legally, only official national and international governmental bodies may do the actual intervening. Under the state system, force may only be exercised by official bodies. Private military and security bodies like Blackhawk, do not have international authority to intervene. Likewise a national authority should not be delegated to a private body to act out an intervention.¹¹⁰

The current international authority for natural disaster response deployments is the Office for the Coordination of Humanitarian Affairs (OCHA) and the Emergency Relief Coordinator (ERC). As explained in Sections 5.1.3, 6.2, and 7.1.1, the Emergency Relief Coordinator's role is to coordinate the assistance offered and consented to by a country affected by a natural disaster. OCHA and the ERC would thus be an appropriate choice as the body with the legal right authority to intervene.

Now, OCHA and the ERC operate as they do because they hold some sort of collective will from those legally and morally allowed to use force.¹¹¹ With this in mind, the right authority for carrying out an intervention may continue to be the ERC if it is able to liaise with either the Security Council or UN General Assembly in such

¹¹⁰ Consider that Blackhawk's mission during the Iraq War was to provide personal protection only and not to engage in the hostilities (Woolf, 2015). Using Private Military Companies (PMCs) is not illegal under international law. However, privatization may "undermine constitutionalism and democracy by bypassing veto points and formal governmental involvement, centralizing power in the branch of government writing the contracts and delegating its foreign policy to private actors" (Schilde, 2015).

¹¹¹ NATO and/or a coalition of the willing as occurred before the invasion of Iraq in 2003 would not have the right authority to intervene in natural disaster interventions as I have described. A coalition of the willing type authority for intervention is not backed by the authority of the United Nations and, accordingly does not have the backing of the authoritative body within international relations. More important for the moral authority of an intervention is that NATO and/or a coalition of the willing only has authority from a very select group of countries. The UN, because its membership is much broader and representative of the global population, is a more appropriate multilateral authorizing body. NATO and a coalition of the willing are thus not possible legitimate authorities for deciding to intervene.

a way as to gain authority and act quickly and efficiently. Accordingly, any actions taken by the Coordinator's office will have the full weight of the UN behind it.

It is worth considering the creation of a separate body to organize and deploy for natural disaster interventions which has a direct communication and authority line to the authorizing body within the United Nations. However, the ERC may be an appropriate model upon which a new natural disaster intervention decision-making body should be formed.

The reason for seeking multilateral consensus is thus a hope of bestowing some level of moral legitimacy on the intervention. That said, there are several practical reasons for seeking multilateral consensus. First, if a government makes the decision to intervene on its own and it is the 'wrong' decision, that government will likely be voted out of office in the next election. However, if a government is acting as part of a coalition or as part of an international intervention, it has had to justify the case for intervention to the international community. Accordingly, an intervention will be the decision of many and not simply the decision of a lone national leader. A national public are usually more understanding of mistakes made by the global community than mistakes made by their leaders alone.

Also, unjust interventions may trigger other unjust interventions. When one country acts without authority it undermines the authority of the international society of states. Consider a state that interferes with the affairs of another state without asking for international approval and which receives no punishment. Other states realise that interventions without authority are possible and will not cause them harm. As a

result, there is very little incentive for states to seek approval from the international community.¹¹²

And so, right authority is another necessary criterion for an intervention to be considered just. The decision to intervene must be made by those with the right authority, namely a multilateral body. Once the decision to intervene has been made, a (governmental) unilateral or multilateral operation may act, as long as the political will to carry out the multilateral authorization is present.

7.2.6 Right Intention

Do those preparing to intervene have the right intention for doing so?

Once we know who or what has the right authority, we can explore the intentions of those right authorities. Right intentions are those reasons which justify the military action and are not given simply as “cover for the pursuit of other aims” (McMahan, 2006, p. 5). Hence, in order for an intervention to be just the authorities must have a right intention.

Analysis of the invasion of Iraq in 2002 suggests that the originally offered reasons for going to war did not match the actual intentions of the US Government. The originally offered justification for invasion had to do with preventing the spread and

¹¹² To avoid an unjust intervention into one's country, leaders will likely avoid carrying out an unjust intervention elsewhere lest a precedent be set. Additionally, countries are unlikely to risk public condemnation by authorizing an intervention if it could possibly be seen as unjust. An unjust intervention may lead to being voted out of office, trade restrictions or, at worst a similar intervention being put upon them. Even when individual countries offer to intervene unilaterally for selfish reasons, collective decision-making will help to mitigate the power that any one country can have.

use of chemical and biological weapons in Saddam Hussein's possession (Wallechinsky, 2011). By invading, the US asserted that it was stopping imminent terrorist attacks. As well, the US attempted to prevent the spread and use of chemical and biological weapons by terrorists. If this were the entire expectation, then, there clearly was a *right intention* to the US invasion of Iraq. Military action justified on the grounds of preserving international peace and security is internationally recognized as a reason for going to war.

In the years following it has become increasingly clear that preventing terrorism was in fact a 'cover for the pursuit of other aims'. George Bush himself has claimed that the real reason for invading was to spread democracy to the country. Some suggest that there were still others reasons for invading: war profiteering and/or the protection of vital strategic interests (Wallechinsky, 2011). These are not justified 'right intentions' for invasion (or, for the purpose of this thesis, intervention). In line with the just cause requirement of Just War Theory, those intervening must be working to prevent human rights abuses and/or restore international peace and security. Preventing the spread of weapons was actually the 'cover' for spreading democracy, amongst other things. And so, the US invasion of Iraq did not have a 'right intention'.

Intervention in the event of a natural disaster must likewise be carried out with a right intention. It must be done to support human rights and/or to ensure international peace and security. As argued in this thesis, an intervention when a government is unable or unwilling to provide for the basic needs of its people in the aftermath of a natural disaster is justified if it intends to provide the goods associated with the human right to welfare.

Dobos addresses the possibility of ulterior motives in humanitarian interventions:

“Humanitarian intervention is often (if not always) driven (at least in part) by ulterior motives that have nothing to do with the suffering of its ostensible beneficiaries. ...The revelation that a humanitarian intervention is actually motivated by national self-interest is often presented as if this, on its own, is enough to make it immoral. Clearly it is not” (Dobos, 2012, p. 66).

Indeed, all of the intentions associated with an intervention need not be selfless. However, a right intention must exist amongst the justifications offered for intervention in order to satisfy this necessary just war condition.

7.2.7 Long Term Consequences

What happens after the intervention?

Finally, before a natural disaster intervention commences, decision makers must weigh the possible long term consequences of such an intervention. Decision-makers must also decide if, in line with the requirement of proportionality, the benefits will outweigh the costs (See Section 7.2.3). Long term consequences include the possible impact on those receiving and those providing assistance. An intervention carried out without a big picture view or an exit strategy does not have the needs of those it aims to help in mind. Only when any negative long term implications of an intervention have been mitigated can the other just criterion be satisfied. Long term implications fall into three categories (usually). These include

the consequences on the individual, regional stability, and the international community in general.¹¹³

So, first, any intervention should be done to provide for the welfare of individuals affected by a natural disaster. It has been argued in this thesis (See Section 6.2.2), and by others, that the rights of the individual supersede that of the state (Fixdal & Smith, 1998, p. 294). Indeed, individual (human) rights are of the highest priority and hence any intervention must benefit individuals in the long run.

Consider the long term implications of disaster relief. Shelter is a basic good which is often delivered as a part of earthquake relief. In April 2009, a 6.3 magnitude earthquake hit the town of L'Aquila in central Italy, just east of Rome (Squires, 2009). The L'Aquila earthquake destroyed public buildings and homes. As a result people were living in tents to avoid being killed in aftershocks. The tents were well received at first. However, anxiety mounted as the rains made tent-life an unbearable reality. With "government inaction and mafia hijacking of reconstruction funds" delaying people's return to their homes, it was expected that many months would pass before those affected would be able to move out of tents (Squires, 2009). The responders did not review the capacity of these facilities in the long term. Hence decision makers did not adequately determine the long term implications of the assistance being provided. Accordingly, while the goods associated with basic welfare were delivered they were not adequately appropriated for long term displacement.

¹¹³ There are other long term implications that should also be considered: environmental and animal. However, these are controversial and unnecessary to discuss when considering that this thesis concentrates on the *human* right to welfare. I will discuss the long term effects of an intervention thoroughly in Section 7.3.2.

Second, there are relevant long term consequences at the regional level that also need to be considered. Perpetuating state power and regional dynamics which maintain stability cannot be done at the expense of human welfare (See (Fixdal & Smith, 1998, p. 294). So for example, it is unjust to intervene in order to remove a dictator from power. While an intervention may bolster the welfare of those affected by a natural disaster, those suffering are used as pawns in a regional vie for power.

Furthermore, if the international community intervenes to save North Koreans from the effects of an earthquake, the interveners risk the wrath of China who will likely see themselves as the regional hegemon. South Koreans may, as a result, be dragged into a regional war. Thus a long term implication of intervention to support the human right to welfare may be regional imbalance.

Decision makers must also consider the effect non-intervention would have on those outside the affected country. Individuals and governments in neighbouring countries will likely have to deal with the aftermath of disaster as well as disease, famine, refugees and possible political unrest. The long term consequence of non-intervention are likely to be as bad or worse than intervention which will aim to reduce the levels of death and migration possible in the aftermath of a non-supported natural disaster.

This leads to the final category of long term implications: global political and economic stability. For example, in the aftermath of the real Sri Lankan tsunami, thousands of kilos of rice were donated to the country. While this rice was intended to stop the suffering of those affected it was not useful (BBC Sinhala, 2005). That

much rice would likely flood the local market making it impossible for local farmers to sell their rice.

Here, then, those offering assistance did not consider global political and economic stability and results were disastrous. Instead of providing assistance in this way, we must develop policy that takes the needs of every human affected into consideration. The long term consequence of destabilizing a region must indeed be considered when deciding whether an intervention would be just. Furthermore, an intervention's ability to maintain some modicum of stability for the region must also be considered.

7.2.8 Summary of Just Intervention Criteria

The criteria I have discussed in this chapter are then as follows:

1. Inability/Unwillingness for a Government to Respond
2. Just Cause
3. Proportionality
4. Last Resort
5. Right Authority
6. Right Intention
7. Long Term Consequences

Each of these criteria is a necessary condition for an intervention to be just. Together, these seven criteria establish a sufficient ethical framework for policy makers to engage in a just intervention. Establishment and use of jus ad interventum criteria is the ethical way forward for natural disaster intervention policy.

Like the necessary and sufficient conditions of jus ad bellum, these seven criteria are only useful in determining whether an intervention itself will be just. The guidance I have set out here does nothing to help create jus in bello or just conditions during an intervention. That requires a separate study. And so, to continue my analysis of jus ad interventum (or justice in intervening) I next address possible objections to the development of such an assistance policy in the event of a natural disaster where a government is unable or unwilling to provide the necessary assistance to affected individuals.

7.3 Objections to a Natural Disaster Intervention Policy

In this final section, I will consider possible objections to intervention policy for natural disasters argued for in this thesis. My responses will be in many cases based on arguments I made in Chapter 6. Specifically, this includes how the human right to welfare creates a duty for the international community to intervene.

First, in Section 7.3.1, I discuss the objection that an intervention is really concealing imperialistic tendencies of wealthier and stronger countries. In 7.3.2, I discuss the long term implications of an intervention: what an intervention means for the interveners and those affected by the natural disaster. In 7.3.3, I discuss the problem of 'dirty hands'. 'Dirty hands' is a challenge for political leaders and military actors in which there is no good option for resolving a problem. Those responding will be guilty of something if they act just as much as they will if they do not act. In 7.3.4, I review the objection based on the demandingness of creating yet another reason for the international community to intervene. In 7.3.5, I respond to the objection that

there is a lack of political will for intervention of this kind and therefore developing a policy is unnecessary.

7.3.1 An Intervention Conceals Imperialist Tendencies

Developing countries rightly worry that an intervener or foreign powers supporting response operations will conceal imperialist tendencies. Indeed, militaries are often seen as a threat by local populations and governments simply because they carry weapons (Wiharta, et al., 2005, p. 82). An affected country may worry that they will then end up a puppet government, beholden to those that ‘rescued’ them from a miserable fate. It could thus be argued that development of a natural disaster intervention policy at the global level will make it possible for hegemonic state(s) to “claim exemption from rules it expects other countries to observe” (Nardin, 2005, p. 26).

Sadly, it is a fact of the international community that greed and power often drive decisions to support affected communities just as much as do humanitarian considerations. The imperialistic intentions of those offering help are in many cases real and they must be guarded against. Imperialistic tendencies will be a possibility in any interaction between a stronger and a weaker power, no matter what policies are in place.

A recent example of the imperialistic tendencies of foreign invaders is Afghanistan in 2001, after the US-led invasion. Hamid Karzai, the post-invasion Afghani president, extolled the Americans and others for using the Afghan people as “sacrificial lambs” in an attempt to maintain a state of permanent war in the country. Permanent war

allows for American influence in the country and an ongoing military presence (Faiez, 2014). Many remember the Banana Republics of Latin America where the countries' politics and economics were driven by American fruit importing corporate interests (The Economist, 2013).

Even if we accept that imperialistic tendencies are a real possibility, we need not accept that the possibility of imperialism is always a reason *not* to intervene. Indeed, there are two ways to respond to this objection. First, international policies already restrict imperialist tendencies of intervening states. By having a policy for natural disaster intervention in place, we have a better chance of keeping imperialist powers in check. Second, a natural disaster intervention policy which allows for foreign assistance without consent can risk imperialist invasions just as easily as is inviting foreign forces to support a domestically run operation. I will consider these responses in turn.

First, while we cannot prevent hegemonic powers from trying to obtain a larger sphere of influence, we can make it more difficult to do so. Humanitarian intervention, properly understood, is grounded in supporting those affected by an atrocity and under the authority of international law (Nardin, 2005, p. 25). Furthermore, the use of force is restricted under international law. Article 2(4) of the Charter specifies that the use of force is not to be used in any manner "inconsistent with the Purposes of the United Nations" (United Nations, 2015). Hence, humanitarian intervention is not explicitly allowed for (but it is not prohibited either) (Stanulova, 2010, p. 6). Further, the International Federation of the Red Cross and Red Crescent Movement promote and utilise the *Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery*

assistance (IDRL Guidelines) in their disaster relief programmes. These and other international policies aim to restrict how and when force may be used for humanitarian purposes.

Indeed, aspects of UN Peacekeeping are allowed under Chapters VI, VII, and VIII. However, even here use of force is meant as a tool of ‘self-defence and [in] defence of the mandate’ (United Nations, 2015). Hence, international doctrines provide a mechanism for intervening and set out the possible implications for the intervener if there is an unauthorized use of force. These rules thus, support response operations tried, tested and approved by the international community. The rules also ensure that there is a mechanism for admonishing those who do not follow the rules. Accordingly, policies can keep imperialist states in check.

If we look at natural disaster scenarios specifically there are no mechanisms for or means of admonition by the international community in the event of an intervention. In 2007 the United Nation’s International Law Commission began the process of developing a multilateral framework on *Protection of Persons in Event of Disasters* (Tokunaga, 2014, pp. 46-53). (This doctrine will be discussed in more detail in 8.3.5.) This framework did nothing to enforce the duty of the international community to respond in the event of a natural disaster. The requirement of consent and respect for state sovereignty and the state duty to be responsible for its own people remain the guidance for those considering natural disaster intervention.

The consistency of the norm of non-intervention for natural disaster response suggests that members of the international community will avoid intervention. However, the consent requirement and resultant non-intervention guidance are

clearly not in line with the ethical argument being made in this thesis. I have therefore suggested in this thesis that a transparent policy for natural disaster intervention is necessary. Transparency, I hope, should calm the fears of those who see intervention as concealment for imperialist tendencies and trigger a normative shift away from non-intervention. Indeed, transparency is one of the reasons for the development of a new policy for natural disaster intervention in line with the just war criteria outlined in Section 7.2. Checks and balances to prevent imperialist tendencies of intervening states are built into the structure of my policy proposal.

I return now to the point that having rules in place for humanitarian intervention and peacekeeping operations will provide a better opportunity to keep imperialist powers in check. It is reasonable to accept that natural disaster response will benefit in the same way. 'Do not intervene' as a policy suggests that no country ever will. This is short sighted and naïve. If negotiation with the Burmese Generals had not gone the way it did after Cyclone Nargis, there is a huge possibility that the international community would have forcibly intervened. We would have had no way of checking imperialist tendencies of interveners in that situation. Therefore, only through the development of natural disaster intervention policy can we even attempt to manage tendencies.

Second, some give weight to national consent as a pivotal requirement for foreign parties entering and supporting a natural disaster response. It is believed that this will insulate affected countries from imperialistic threats to the domestic government. Governments hold that the consent requirement ensures that assistance can be integrated into the domestic operations. It further ensures that a national government

can take the lead in delivering required aid.¹¹⁴ However, as the Afghanistan example (See Section 7.3.1) makes clear, even those countries who have granted access to foreign countries are at risk of losing control over self-governance. Consenting to assistance will not always prevent imperialistic intentions.

It could be claimed that creating an intervention policy for natural disasters will remove the ability of governments to consent to assistance and therefore blatantly opens the door to imperialist invaders. However, the international community already finds ways around consent if the interveners have the political will and the intention to intervene. Take airdrops as an example. When conflict prevents overland access to people starving, airdrops can supply thousands with food and supplies (IRIN News, 2009). Airdrops are much more expensive than traditional methods of supply delivery and they require skill for accurate drops. That said, if the need is great and the political will is there, those providing disaster relief will find a way to get supplies to those in need.

So, consent ensures that those best placed operationally to deliver assistance are given the space to do so. It keeps leadership in the hands of those with local knowledge and with the interests of their own domestic population at heart. Suggestions that interventions may hide imperialist intentions are justified: imperialist

¹¹⁴ As explained in Chapters 4 & 7, consent is often an operational requirement of the disaster response. This is because any extra, external assistance can overwhelm responders. I have, however, given examples of when a government (in this case Sri Lanka) may be unable or unwilling to provide assistance to its people. In these scenarios, the decision to intervene must involve coordination with multiple foreign governments and powers should consider whether the issues faced by an affected population warrant interference. Only then is it that interference without consent can be considered (see discussions in (Holzgreffe, 2003, p. 18; Archibugi, 2004)). Note, though, that this type of intervention discussion is not currently applied to natural disaster scenarios. The only way to ensure that these issues do not come to fruition is to make policy for intervention ahead of natural disaster scenarios that require it. Only then can we guarantee that imperialistic tendencies, a disregard for the value of consent and the operational issues arising from unnecessary assistance are not the norm.

tendencies or intentions will exist regardless of the type of international action under negotiation. Policies which provide checks and balances against imperialist tendencies are put in place so as to prevent rampant and unmitigated imperialism from occurring when a population is at its most vulnerable. A natural disaster intervention policy will provide such a check and is thereby necessary.

7.3.2 Detrimental Long Term Effects of an Intervention

The former United Nations' Under-Secretary General for Humanitarian Affairs, John Holmes, has argued that 'invading' a country affected by a natural disaster would do nothing to speed the flow of assistance to those without food, shelter and security (Bowley & Erlanger, 2008). All intervention will do, it can be argued, is add additional problems to an already destabilized region. People may be assisted in the short term; however, long term the country will have to deal with the political and economic impact of foreign interference.

There are three concerns with an intervention regarding long term effects for me to address. First, foreign assistance will likely exacerbate already unstable countries and regions. In this way interventions may actually bring greater harm to those affected by a natural disaster than what would have befallen them if left to their own struggles. Second, international responders are unlikely to stay in-country long enough to bring assistance projects to their necessary ends. We risk international responders providing short-term (albeit effective) assistance instead of strategized assistance aimed at the long-term development of those affected, simply because there are too many disasters to which they must respond. Third, foreign assistance

workers do not have the same duties to those affected as workers within the same country have.

I begin with the harm caused specifically by an intervention. Interventions are often disastrous, leaving more chaos and bloodshed than would have occurred had the international community left the domestic government to its own devices. For example, in post-US invasion Iraq and the more recent Syrian crisis it can be argued that unsolicited, unwanted and resisted international interventions have produced terrible consequences. Political instability, economic frailty, and overdependence on an international system tired of supporting those who cannot support themselves are very real long term effects of an intervention.

Disaster fatigue is a real phenomenon in which the greater the devastation and the more frequent the devastating events, the less people care about the disaster (Tolin, 2008). Statistics point to the idea that the Myanmar cyclone (2008) and the China earthquake of 2008 received less foreign charity than would have been expected given the size of the disaster. One reason for this is the overwhelming number of disasters which occurred in succession (Associated Press, 2008). And so, it is to be expected that populations and would-be interveners would likely become weary of providing assistance and may therefore cease providing long term aid.

Furthermore, some argue that change must come from within and therefore any political, economic or operational change must be initiated by those actually affected in order for a long term integration of change (Walzer, 2002, p. 2). Under the terms of the social contract argued for by Hobbes and Locke, the state has a duty to support the needs of its own citizens. Likewise, we have special duties to

compatriots. Hence, it can be reasonably argued that duties and obligations are owed to others within the same state and any actions taken on behalf of those affected must also come from within the state if long term relief activities are to improve the society in question (Dobos, 2012, pp. 123-128). And so, it can be argued that a better post-disaster reconstruction and rebuilding will occur if locals are the driving force. National responders will always know the political, economic and social landscape and be able to provide assistance in line with the long term, collective goals of the affected community. This point offers us reason to avoid intervention: those affected by a natural disaster will be better off in the long term without the help of foreign sources.

But these are not arguments for non-intervention. It is true that we cannot guarantee that the outcome of any use of force will be positive (Camus, n.d.). But equally, we cannot rule out the use of force in general. In line with just war conditions, the long term effects of an intervention must be considered when weighing whether or not intervention is appropriate (see Section 7.2.7). Following a set of criteria such as those for a Just War (and additionally those criteria established by the Responsibility to Protect) will help to minimize the damage caused by the use of force as that is what the criteria were originally intended to do. Additionally (and as explained in Section 7.2.3), force will be used proportionately to the needs of the disaster.

I can agree with much of the argument regarding detrimental long term effects of an intervention. There are many situations in which an intervention would have created further problems for an effected state (i.e. an intervention into the United States in the aftermath of Hurricane Katrina). However, I intervention must be established as a tool of the international community so that it can support the welfare of affected

individuals –even if it is not used frequently. Sierra Leone (1999-2005) and Burundi (2004-2006) are both seen as successful international peacekeeping operations (Henderson, 2015). In Sierra Leone a UN-brokered peace deal meant an end to a longstanding civil war which is thought to have killed 50,000 people (Reuters, 2008). Included in the Burundi Mission’s mandate were contributions to “the creation of the necessary security conditions for the provision of humanitarian assistance, and facilitating the voluntary return of refugees and internally displaced persons” (United Nations, 2006). As these and other peacekeeping operations remind us, there are definite concerns about the long term effects of an intervention.¹¹⁵ However, these case studies make clear that intervening is not always a means to detrimental ends. Indeed, sometimes, intervention will save lives and provide for the welfare of those affected by an emergency when a national government is unable or unwilling to provide safety.

7.3.3 Dirty Hands

The third objection often raised in response to the idea of military interventions for good causes is that of ‘dirty hands’. ‘Dirty hands’ is a moral dilemma often debated when a country is deciding whether or not to intervene to stop genocide or large scale human rights abuses. ‘Dirty hands’ is essentially a paradoxical dilemma in

¹¹⁵ Unsolicited, unwanted and resisted international interventions have produced terrible consequences in the past. Indeed, without due consideration of the consequences of military intervention, it is reckless to recommend such. However, it can be equally argued that for every Iraq or Syria situation in which an intervention creates instability and exacerbates local problems, there are counter-examples in which an intervention has been both appropriate and responsive to the needs of those affected.

Additionally, the invasions of Iraq and Syria can arguably be said to violate the right authority and right intention criteria of Just War Theory. So as to avoid reckless interventions for natural disasters going forward, I have established my intervention policy in line with the just war criteria. Accordingly, I have argued for a policy which should hopefully allay the once-bitten-twice-shy responses of those politicians and laypeople who are against interventions.

which one must do something bad in order to do good. In dirty hands situations there are no purely 'good' outcomes available. The dirty hands dilemma involves issues of blameworthiness in both ethical and political dilemmas (Sartre, 1948; Robinson, 2007; Walzer, 2004; Gaus, 2003; deWijze, 2013).

In this section I will first give a more detailed explanation of the dirty hands phenomenon in general and then in intervention scenarios specifically. I will also consider the placement of blame on dirty hands actors. I will then argue that despite the persistence of dirty hands scenarios and the possibility of blameworthy deeds in natural disaster interventions, intervention is morally required in the type of natural disaster scenarios discussed in this thesis.

With my brief definition of dirty hands in mind, consider the following: shooting one man to save the lives of four other men could be thought to be justified at least in certain circumstances (war being the most obvious example). However, at the same time many people think that even in these cases the act of killing is still morally wrong. Hence the paradox of dirty hands is this: how can one need to do wrong in order to do what is justified and even right? (deWijze, 2013; Gaus, 2003).¹¹⁶

¹¹⁶ Bernard Williams offered a now famous example of dirty hands to illustrate the paradox (1991, pp. 100-107): Jim is visiting a small village in Latin America. Five Native American protestors have been arrested and Jim is invited to kill one of the Indian protestors tied up against the wall in the centre of town. If Jim kills the one, the other protestors will be freed. If he refuses to kill the one, all of the Indians will be killed.

Jim has two options. Option 1 involves killing a human being. Killing is bad because it deprives a person of their life. At the same time, killing one person, here the Indian, will save the other protestors. Option 2 would mean that Jim does nothing. He does not take away the one Indian's life which is a good thing. However, he has been directly responsible for the death of the other Indians. While he did not shoot them himself, he is responsible for the deaths. Neither decision will result in an outcome that is right.

A natural disaster intervention as I propose may also qualify as a dirty hands situation. If an intervention has satisfied the Just War criteria outlined in Section 8.2, it can be understood as a justified action. I argued in Chapter 4 that a natural disaster intervention is in some situations morally required in order to re-establish a basic minimum level of welfare to those who are not being helped by their national government for one reason or another. An intervention can thus be said to be obligatory. However, as discussed in Section 7.2.4, any use of military force may involve killing or other loss of life and thereby could also be thought to be morally wrong.

Hence because a natural disaster intervention may result in some killing we can say that a natural disaster intervention may result in dirty hands. It follows, then, that if killing occurs, a moral wrong has also occurred and blame will be attributed. So, in explaining how natural disaster interventions may require killing I am assuming that there will be some level of blame aimed at the interveners. Natural disaster interveners will, by extension, have dirty hands. However, as I will explain in this section, natural disaster interventions are a case of less bad and therefore less blame.

I will argue here that natural disaster interventions are morally permissible despite the possibility of dirty hands. I will begin with a discussion of blame. I will then apply different principles of blame to the natural disaster intervention scenarios argued for in this thesis. From this I make the case that the possibility of dirty hands should not prevent the development of natural disaster intervention policy.

I begin with blame. Michael Otsuka first engages with Principle of Alternate Possibilities (PAP). Otsuka explains that according to PAP if an action could have been avoided, but wasn't, the actor can be blamed for the outcome of the action (Otsuka, 1998). Suppose that Sarah pushed Jane down the stairs. We blame Sarah for doing this because she did not have to push Jane down the stairs. There were alternate possibilities.

As an alternative to PAP, Otsuka offers instead The Principle of Avoidable Blame (PAB). This principle states that one cannot be blamed for carrying out an act if all other options would have deserved more blame (Otsuka, 1998). Using the same example as above, imagine that Jane is going to drop the box she is carrying onto a child sitting on the floor. In attempting to stop the harm occurring to the child, Sarah can push Jane out of the way and onto the floor or push her down the stairs. According to PAB, Sarah cannot be blamed for pushing Jane down the stairs in this case because, had she chosen any other alternative, she would have been more blameworthy. As seen in this example, the PAB is situation specific, and all options must be weighed at the time that a decision is being made to determine if there are any options available that would be less blameworthy than others. Importantly, according to PAB even non-action is still a choice that may lead to blameworthy outcomes if an alternative action exists.

Let us now apply the Principle of Avoidable Blame to natural disaster intervention scenarios. There are two options available to the international community when a national government is unable or unwilling to aid its own people. Option A is to not intervene militarily and continue to offer relief. The outcome of this option is that people will continue to suffer and die from disaster-related harms. Option B involves

a military intervention. The international community will save those people suffering from the natural disaster but we may have to kill people in order to deliver that assistance. By applying PAB it is reasonable to carry on with Option B. This is because in carrying out natural disaster interventions according to the just war criteria as I have set out (see Section 7.2) all possible alternatives have already been considered and they would be more blameworthy. In deciding to intervene we are saying that Option A would likely result in more deaths or more harm. Otsuka's PAB thus confirms that we would not be blameworthy if all other alternatives are more blameworthy. Indeed, according to Otsuka there are always least worst options available to us in the dirty hands scenarios for which we cannot be blamed (1998, p. 693). When intervention is deemed just (and thus proportionality and long term consequences have been deemed acceptable) intervention will be less blameworthy than non-intervention, which also suggests that such interventions are permissible.

Accordingly we must accept all of the grim possible realities involved with saving those who can be saved as we are ethically required to do so.¹¹⁷ 'Dirty hands' is a horrible reality and one which we will have to face when deciding whether to intervene for natural disaster response.¹¹⁸ However, disallowing intervention as a possible response vehicle ensures that people will not be saved by an intervention either. In sum, the possible killing involved in an intervention, whilst a moral cost, is less blameworthy than not intervening.

¹¹⁷ Zack would continue this point and say that there are possible grim realities involved with saving those who can be saved – with the best preparation possible (Zack, 2011). This is a necessary point to add and connects the need for preparedness with the operational and ethically necessary requirements of a just intervention.

¹¹⁸ Consensual assistance is offered and accepted consistently in international affairs for reasons of conflict, natural catastrophe, poor management or economic instability. Conflicts of the 1990s, particularly those in the Balkans and the Congo, have forced a reconsideration of how and when to intervene. The unbridled use of force without due consideration of the individuals likely to be affected is no longer seen as the norm. The interveners first must therefore consider what effect the use of force will have on the local population (Kaldor, 2010, p. 137).

7.3.4 Demandingness

The fourth objection to interventions in general is that they are terribly demanding on the intervener. Costs associated with supporting a population's human right to welfare include: (i) the time associated with intervening (a natural disaster response can range from a week to years depending on the scale of a disaster); (ii) the economic and human cost (the US declared 84 major domestic disasters in 2014 - the winter storms in New York in December as one disaster was allocated over USD\$31million (FEMA, 2014)); (iii) the political strain put on leaders; (iv) the disruption to the lives of the population in the intervening country; (v) animosity of those who received intervention assistance (see (Walzer, 1995) for further discussion). These are all high costs for supporting a population's human right to welfare.

In addition to the demandingness of the interference, there is also the issue of stabilization and reconstruction and thus the demandingness of recovery. The 'in and quickly out' strategy is not always possible because (a) there may be no institutional or human resources left after the intervention upon which to base a reconstruction, (b) the killing might continue once you leave, and (c) the state has disintegrated (Walzer, 2002, p. 7). Disaster relief projects are estimated to have cost the global economy \$20billion per year from 2000-2010 (IMF Survey, 2012). In addition, some military operations have maintained a presence in foreign countries for decades thus adding huge financial burdens to the intervening country. This is a huge allocation of resources with little or no direct benefit to the intervening country.

Demandingness is an issue if we look at it from a purely ethical perspective as well. Most branches of consequentialists subscribe to the rule of utility maximization. However, it is not clear whose utility matters most or how we go about maximizing utility in dynamic and ever changing scenarios.¹¹⁹ So, the provision of tents to those displaced from the L'Aquila earthquake brought about a safe, warm and dry consequence for those whose homes were destroyed. At the same time, if we look at the same situation and capabilities maximization, the people affected are anxious about their ability to survive the cold winters. Even if they are to survive the winter in tents it will not be an easy or happy winter. Hence, there seems to be a consistent and never ending list of requirements necessary to bring about ethical ends for those affected by a natural disaster.¹²⁰

While interventions in many cases may be demanding, I am not arguing that intervention is a tool to be used by states on a regular basis. Instead, it should be seen as one option for the international community by which it can uphold claims of sovereignty and defend the human right to welfare. Intervening will definitely be demanding and may drain economic and political resources for a period of time. Understandably, many world leaders would be loath to risk economic, political and military stability if previous interventions have turned out poorly. However, developing an intervention policy will ensure that (a) interventions are the exception and not the rule and (b) that any intervention can be done in such a way, and with such international agreement, that no one country's resources will be used

¹¹⁹ See Ashford's discussion of the demandingness of contractualism in emergency situations in (Ashford, 2003, pp. 280-284).

¹²⁰ There is another consequentialist objection to natural disaster intervention. If maximizing utility continues to be the ultimate end of disaster relief, it is very possible that we would be required to devote all energy to relieving the suffering of others. This would be very demanding.

disproportionately. Hence, through the establishment of a framework for when natural disaster intervention is morally required we can establish the parameters as to when and how such an intervention will be carried out.

For example, we do not engage in every possible peacekeeping operation. Instead, we debate whether the newest case of war crimes or genocide meets the internationally established justifications for intervention. That debate cannot and will not happen for natural disasters if we do not establish a framework guiding when to intervene. By following the criteria for a *jus ad interventum* established in this thesis we can ensure that intervention assistance is never more than any one country can reasonably provide.

Furthermore, it should be recognised that having a natural disaster intervention policy in place will help to prevent the later, even more demanding humanitarian interventions, possible civil wars, and development programmes. These three scenarios are likely because natural disasters create unstable environments and, when the natural disaster is bad enough, disrupt a society's ability to respond to follow-on or subsequent events (World Economic Forum, 2008). Humanitarian interventions, civil wars and development programmes are more demanding than taking steps to mitigate death and destruction immediately after the natural disasters. Long term development programmes, for example, will require years of funding, staff and political capital in order to appropriately respond to the needs of those originally affected by a natural disaster. To that end, it is less demanding to commence natural disaster intervention than it is to let an event spiral thus requiring later assistance.

It can also be argued that the moral urgency of providing food to the hungry or shelter to the homeless after a natural disaster which has obliterated the lives and livelihoods of an affected population is the same as the moral urgency of responding to a massacre. Indeed, the demandingness associated with peacekeeping operations, while it may minimize political will to act, does not undermine the moral imperative. Being virtuous and upholding moral imperatives is difficult. Taking the hard decision to use force and possibly harm people is never an excuse to suspend “the struggle to be virtuous” (Fixdal & Smith, 1998, p. 287). Accordingly, intervention for natural disasters will be demanding but that is not a moral reason not to intervene. Creating a norm for natural disaster intervention will increase the number of occasions in which an intervention should be carried out. However, the duty to intervene to save those affected by a natural disaster is no more demanding in itself than is the duty to save those affected by conflict.

7.3.5 Political Will

There are also some who believe that the political will for an intervention is too much to expect from the international community. In fact, high level debates on the topic of intervention for natural disaster have concluded that non-intervention, and concentration on diplomacy and non-forceful arrangements, is the most appropriate method of response for natural disasters. The original architects of the Responsibility to Protect doctrine assumed natural disasters and pandemics should be included as triggers for international intervention (Axworthy, 2008). However, when ratified, RtoP did not include natural disasters because there was not enough political will internationally to support their inclusion (see Section 6.2.4). It can thus be argued that no matter what should be done to support those suffering from a natural

disaster, we will simply not garner enough support to create, let alone initiate, an intervention.

More recently, in 2007, the United Nation's International Law Commission began the process of developing a multilateral framework on *Protection of Persons in Event of Disasters*. As discussions progressed, more considerations were added to the draft document. In 2010, one focus was "the primary responsibility of the affected State, due consideration to sovereignty and non-intervention" (Tokunaga, 2014, p. 51). In 2011, drafters focused on including issues associated with "(1) the responsibility of the affected state to seek assistance where its national response capacity is exceeded; (2) the duty of the affected state not to arbitrarily withhold its consent to external assistance; and (3) the right to offer assistance in the international community" (Tokunaga, 2014, p. 53). Eventually these points were incorporated into Articles of the framework – state consent and support of state sovereignty being key (Tokunaga, 2014, p. 55). The parties to the ILC discussion (for the most part) rejected the idea that there was an international duty to assist when a state was not acting on its duties to the affected people (Tokunaga, 2014, p. 54). Political will in this case thus turned out to be against the development of natural disaster intervention policy.

Political will is very rarely behind any activity that costs money and might disrupt the status quo of domestic life – even when the welfare of those in other countries is at risk. Take, for example, the debate as to whether the international community should involve itself militarily in Syria considering the civil war, the rising power of ISIS and the lack of action taken by President Assad to support his people (many of who are risking their lives and becoming refugees). The anti-bombing side of the debate can

reasonably argue that both sides of the conflict in the civil war have killed, Assad is the legitimate leader of the country, and ISIS is a non-state actor which should be dealt with separately from Syria. At the same time civilians are dying or becoming refugees and Western political will to act is stunted by the economic and political cost (BBC News, 2016). More importantly, there is simply apathy to the atrocities being committed. Getting the British people on side for an intervention will be near impossible.

The objection to military intervention in the case of Syria, then, is that intervention would cost more to 'us' (here, the West) than it would to help 'them' (the Syrians). Furthermore, we could not guarantee that our interventions to help the Syrians would actually create long term stability in the region. There is therefore very little political will to intervene in Syria even if people are suffering. This is a very fair objection to interventions as it weighs domestic interests and duties to domestic citizens against those of distant others.

However, we cannot suspend our ethical ideals because garnering support for an intervention would take too much effort. Walzer argues that 'supreme emergencies' do not justify abhorrent action (2004, p. 48). Likewise, ignoring the needs of humans suffering through a 'supreme emergency' when we are in a position to help them cannot be ignored. Political will is a difficult thing to rouse. However, we must at least attempt to amend societal norms so that they fit with our ethical ideals. We must work to avoid the death or destruction of innocence (Walzer, 2004). Accordingly, political will must drive both the development and adoption of natural disaster intervention policy.

7.4 Conclusion

In this Chapter I explained that a natural disaster intervention policy is both appropriate and morally required. I set out the parameters of such a policy first by explaining in Section 7.1 that preparedness is vital to ethical natural disaster response. When domestic responders are adequately prepared they provide better support. Likewise, if appropriate planning is done in advance of a disaster the international community will be in a position to provide better and timely assistance to those affected by a natural disaster to those whose governments are unable or unwilling to do so.

In Section 7.2 I used the Just War Criteria to establish the foundation for a policy for natural disaster intervention. Here I discussed inability/unwillingness to respond, just cause, proportionality, last resort, right authority, right intention, and long term consequences of an intervention. I argued that each is a necessary condition for intervention; together the criteria are sufficient to justify an intervention. Using these criteria also helps to establish a practical policy which places the welfare of affected humans at its core.

Finally, in Section 7.3 I discussed the objections to intervention, namely the threat of imperialism, long-term effects of an intervention, dirty hands, demandingness, and the lack of political will. Just as there are barriers to the effective provision of assistance in the face of humanitarian emergencies, they will be barriers to intervention for natural disaster response. (I discuss the strongest objection to my thesis in the next chapter.) However, if the objections to intervention in humanitarian

emergencies can be disregarded or overcome than they must equally be disregarded or overcome in natural disaster scenarios.

In sum, there is an ethical way forward for the development and implementation of natural disaster intervention policy. Utilizing the seven criteria set out in Section 7.2 will help us to determine a just process of intervention commencement. When utilized correctly, systematically and universally the objections to intervention cause less of a concern. Indeed, natural disaster intervention policy is possible and must be created.

CHAPTER 8: THE SOVEREIGNTY OBJECTION TO NATURAL DISASTER INTERVENTION

The strongest objections to interventions of any kind, including the ones defended in this thesis, are based on the ideal of state sovereignty. For almost 400 years, the concept of sovereignty has been used to order the international system and justify legitimate political authority within specific, territorially bounded areas. Sovereignty is important to all aspects of societal life: it empowers a self-governing people, through a governing body, to secure a territory from external threats while providing an internal governance structure. The establishment of a system of sovereign states was intended to prevent war and allow for peace amongst the nation-states. In more recent times, however, sovereignty has become a contentious issue, used as a defence by domestic governments against foreign policies and practices.

In 8.1, I will explain what it actually means for a state to be sovereign. The classical definition of sovereignty is “to be the ultimate source of political power within a realm” (Morris, 2000). However, through critical analysis of this definition I will make the case that the ways in which sovereignty is usually understood are both contentious and problematic. Because of this and for the purposes of this chapter, I will develop an improved understanding of sovereignty by considering more carefully how supremacy and authority should be understood in the previous definition. In 8.2, I will outline why sovereignty has been thought to be worth respecting, i.e., what are the societal benefits gained from state sovereignty. These benefits include self-determination, international recognition, political rights, security and cooperation. In 8.3, I will then describe how the notion of sovereignty can be used to ground an objection to my thesis that there are some natural disaster scenarios in which interventions would be appropriate. In 8.4, with the better understanding of

sovereignty developed in 8.1, I will respond to this sovereignty-based objection. I will argue that, in relevant natural disaster cases sovereignty and intervention are not in conflict in a way that would make interventions in these cases impermissible. I will thus show in this chapter that interventions can be permissible in relevant natural disaster cases even if we recognise the value of state sovereignty.

8.1 What is Sovereignty?

As already mentioned above, at a fundamental level, sovereignty can be understood as “supreme authority within a territory”, or in other words, “the ultimate authority” within a geographically bounded community (James, 1986, p. 5; Philpott, 2010). In this section, I will first explain three key elements of sovereignty, namely authority, supremacy and territoriality – and how they are traditionally understood. I will then argue that two of these elements – authority and supremacy – have not been understood correctly. I will therefore propose new ways of understanding these key elements of sovereignty.

First, with political authority a government can establish and enforce rules, deliver judgements, and implement rules from external sources (such as international bodies) (Pogge, 1992). Experts disagree on what it is for a state to have political authority. We can begin from the standard view, which is explained in the beginning of Joseph Raz’s 1985 article “Authority and Understanding” (1985, pp. 5-6). According to the traditional view introduced by Raz, authority generally consists of two distinct elements. According to the first, purely descriptive element, an authority must have the ability to coerce the subjects of the authority and those subjects must have a tendency to acquiesce to the commands of the authority. Now, if this

descriptive element of sovereign authority were the only way of understanding authority, dictators who coerced us to follow commands would count as authorities.

Hence, there is a second, moral element to authority: it must be legitimate. The authority must have the *right* to make demands and coerce people to follow them and the subjects must have a *duty* to obey the commands.¹²¹ In this way authority is only possible when there is a certain kind of a moral relationship between the government and the governed. By combining the descriptive and moral elements of authority, the state can be legitimate in a way that gives leaders the right to command and the subjects a duty to obey. I will argue below that mere tendency of the subjects to acquiescence to authority is not sufficient to justify legitimacy as it is sometimes thought. Authorities must include a minimum moral standard in order to be legitimate, or so I will argue below.

I move now to the second element of sovereignty: supremacy. Unlike other local or supranational forms of political authority, it is thought that a sovereign state must have *ultimate* or *supreme* political authority. By ultimate authority it is meant that no one has higher authority in any aspect of political or economic rule. All laws, rules and security are established, authorized and enforced at the state level. States have the capacity to overrule local courts and judgements. Similarly, a state can (for the most part) choose to disregard regulations made at the international level. For example, Scotland does not have 'ultimate' political authority as it must govern based on laws passed in the British Parliament. So, Scotland is not sovereign because it does not have ultimate authority.

¹²¹ Raz himself goes onto develop a view of this kind. According to him, it is constitutive of authorities that the requirements they set affect what reasons for actions the subjects have (Raz, 1985, p. 13).

It was traditionally argued that this political authority must exist at the state level so as to avoid the problem of the infinite regress (Krehoff, 2008; Morris, 1998). According to the problem of infinite regress any hierarchical system of authority must have closure. Because such hierarchical systems cannot have an infinite number of levels, some agent must be the 'highest' authority so as to solve disputes and make final decisions (Morris, 1998). To see this, let us consider the following example.

Consider Scotland again. Whilst Scotland's First Minister has authority over the social, political and economic activities which take place within the country, Britain's Parliament may overrule laws which contradict those at national levels of governance. Regress is the term used to explain the existence of higher and higher levels of government – so, from the level of town, to Scotland, to the United Kingdom. Infinite regress implies that ceding power to higher and higher authorities can carry on without end. Under traditional interpretations of sovereignty, the UK is the final authority and thus regress is finite at the level of Parliament. So, there must be a declared ultimate or supreme authority helps us make sense of political authority.

The UK has supranational political bodies which exercise authority over it: the European Union and the United Nations, for example. However, these governmental powers do not have 'ultimate' authority; that supreme authority rests with the national, sovereign government. Hence, the regression of authority upward closes at the state level and sovereignty solves the problem of infinite regress.

Finally, the concept of 'bounded' or 'territorially-based' gives structure to the international state system. Each sovereign controls and works on behalf of a specific

piece of land and the peoples who live upon it. The international community upholds norms of entrance into the state system. A government's authority within a territory, and therefore its authority to exercise sovereignty, is acknowledged by the international community in most situations. Whilst borders are morally arbitrary they serve a practical function in organizing the international system of states. Accordingly, I will continue to include this aspect of sovereignty in my definition.

I have thus far explained that sovereignty has traditionally been understood to consist of the supreme authority within a given territory. This authority will not only be able to coerce, but will have the moral right to coerce and thus will be legitimate. In what follows I will first critique the current view of legitimacy within the context of state sovereignty. Second, I will explain why traditional understandings of supremacy and authority are outdated. Indeed state authority need not be ultimate in order for the state to be sovereign. I will begin each discussion with background so as to explain how and why authority and supremacy should be understood differently.

So, in order to understand the current norms of sovereign authority, I must explain the practical foundations of traditional, legitimate sovereign authority. Originally, and until quite recently, the priority of the sovereign state system has been peace and security within a territory and peaceful relations with other states such that each state could dominate within its own territorial boundaries (Morris, 1998).¹²² An international order which sees to it that ultimate authority remains at the state level

¹²² International peace and security are only possible when society accepts and adheres to rules set out to order the system of sovereign states. When a state refuses to provide for the needs of its people, it is not adhering to the norms of international sovereign statehood. An intervention can then be said to restore order to and thereby reinforce the organization of the sovereign state system. Refusing assistance may thereby necessitate intervention may be required for reasons of international stability.

provides states with a monopoly on the use of force in order to ensure domestic and international peace (Fund for Peace, 2015; Giddens, 2002, pp. 10-18). To that end, it was assumed that sovereign authority only needed to include the descriptive element of legitimacy – namely that of dominance within a territory and a norm of non-intervention into the affairs of other states.

In the post-World War II era, however, human rights became a more important goal of the sovereign state system than international peace and security. With this normative shift the moral element of legitimacy, namely that the state has a *right* to coerce, became a requirement of sovereign states. (This does not mean that the state is necessarily *just* even if it is legitimate (Peter, 2010)). So, instead of simply perpetuating domestic security, sovereign authority required that states act on their political obligations. Non-interference in the affairs of other states would not be observed if a state did not uphold its moral obligations to citizens. In this way, in exercising authority a sovereign government was acting on its moral authority as well the purely practical (descriptive) terms of authority. The goal around which the sovereign state system is structured has thus transitioned from peace and security within a territory and peaceful relations with other states to an obligation to uphold human rights (Donnelly, 2014).¹²³

In line with this shifting norm toward the prioritization of human rights over domestic stability, there has also been much discussion on what sovereignty means amidst these shifting norms. However, moral authority is additionally required because global norms on human rights have shifted our understanding of the necessity of

¹²³ For discussion on a state governing without the consent of the governed see (Luban, 1980, p. 169). For more on the legitimacy of states fighting foreign oppression when it is oppressing its own citizens see discussion within (Doppelt, 1978).

moral authority within politics. For example, citizens accept bad treatment where discrimination normally occurs. However, because a morally legitimate government does not have the right to discriminate, people within a discriminating country do not have a duty to adhere. There is no legitimate authority. Therefore a legitimate government must meet some minimum moral standard.¹²⁴ Indeed, mere acceptance of the commands of one's government is not enough to make a government legitimate.

I now move to discussion of supremacy: how it is traditionally understood and how limited authority is all that is necessary and will more realistically address common problems. Remember, under traditional interpretations of sovereignty, states impose rules and order in their own territories by way of the political authority that is somehow unique to states. As explained earlier in this section, state political authority is said to be unique because it is the *supreme* authority within a given territory.

Traditionally, states are seen as being the ultimate authority within a territorially bounded space. With that they make decisions about all political, economic and social matters free from any external interference. Pure domestic coercion would provide the mechanism through which political authority could be exercised.

Now, political authority does indeed require the ability to coerce; however, that ability to coerce is not specific to states. The international community can also be said to have political authority and this is without undermining or contradicting political

¹²⁴ Nickel has argued that human rights are guarantees of human freedom which must be secured in order for any state to be considered legitimate (2012).

authority at the state level. For example, environmental protection is a global issue. The state must yield to global decisions for reasons of practical enforcement and improvement of global systems (or risk political fallout). Likewise, international trade requires engagement with the global monetary system. With global policies and systems come methods of enforcement including fines and exclusions from future discussions. Hence the international community has the ability to coerce and can be a legitimate authority.

States are not hindered from exercising their sovereignty by adhering to such global regulations or enforcements. Indeed, there is no problem of infinite regress hindering state sovereignty or a government's ability to govern – there need not be an ultimate authority on all matters for authority to be meaningful. Political authority need only be sufficiently authoritative. Furthermore, as Morris argues, an authority that is superior on all matters is simply unrealistic (2000). Instead, one domestic institution might have more expertise in one area than another domestic institution. Here, the institution with more expertise will also have more authority in that specific area – whether that authority flows from the local or supranational level (Pogge, 1992). Just as you would not want the fire service to make decisions on education, a state cannot possibly be expected to moderate on all aspects of society. Hence authority should and does flow from the institutions with the expertise to carry out the relevant tasks.

So if we accept the idea that there should be a distribution of authority amongst those with the expertise and positioning to make certain decisions, states may not exercise 'ultimate' authority. If states act as 'ultimate' authorities during negotiations or engagement with other states it will likely hinder the development of global

policies as there will be no expectation of compromise. A state may need to compromise for the good of the world and not act purely in its own interest. State-based authority (only) thus limits the possibility of engagement necessary for global policy reform. Instead, limited authority at the state level may be more appropriate. With limited authority states can make all required decisions on issues that affect them and to which they have sufficient expertise. Other decisions will be made by those with a global view and specific expertise. It will also ensure that those making policy do not have the ability to contradict the needs of those in other countries.

I therefore argue for *limited* as opposed to *ultimate* authority as an integral component of sovereignty.¹²⁵ In line with the above discussion, the international community has legitimate authority over the monetary system – the international system of stock exchanges and currency calculators is not illegitimate, for example, because it emanates from bodies across (instead of at the level of) states. Instead, legitimate authority should be wielded by that organization in a position to deliver desirable outcomes. Sovereign authority may therefore be limited without undermining its legitimacy and/or the benefits gained from sovereignty.

The relationship between the state government and the governed (and the corresponding rights and duties enshrined in that relationship) is not undermined by the fact that the government is not the final authority on certain aspects of political life. A parent's relationship with her child is not diminished by the fact that she does not have final authority over that child's education or whether the child receives certain inoculations. Furthermore, the international community may exercise

¹²⁵ See Krehoff for discussion of legitimate authority at the state-level (2008)

legitimate authority when it is the most appropriate body to deliberate on specific matters.

For the purpose of this thesis, then, sovereignty may be understood as a territorially bounded political community in line with traditional definitions of sovereignty. However, it only requires limited moral authority within a territory. By understanding sovereignty in this way, infinite regress ceases to be a problem. Also, authority can be exercised by those best placed to provide certain goods or services.

8.2 Benefits of Sovereignty

With a more appropriate interpretation of sovereignty – as limited authority within a territorially bounded region – I can explain how sovereignty is not the barrier to intervention some experts suggest it to be. Before doing so it is important to discuss why sovereignty is valuable both internally and externally to the state (and hence why objections to interventions are based on the primacy of sovereignty). Even sovereignty with limited authority as I have argued for in this chapter has several benefits including (but not limited to) self-determination of peoples and international recognition. Additionally, because the state has the power to coerce, benefits of sovereignty also include political rights, security and international peace. I will briefly describe these benefits here.

8.2.1 Self-determination

First, collective self-determination is the ability of a people to establish a state within which it can govern according to its own political and cultural requirements. In

essence, the establishment of a sovereign state empowers a people to be in charge of their own destiny and demonstrates the group's desire for a territorially bounded state. For example, in the aftermath of the First World War, many groups of peoples (the Poles, Italians, Romanians, southern Slavs, Czechs and Slovaks and many others) sought recognition of their existence as a people and the establishment of states separate from the Hapsburg Empire. Ethnic and nationalist groups appealed to the Allies' proclaimed commitment to national self-determination (Keylor, 2001, p. 60). These nations also campaigned for territorial rights (access to the North Sea for the Poles, for example), which would allow them to realise their economic and political potential as a self-governing people (Stevenson, 2001). Thus, collective self-determination of a nationalist or ethnic group was the rallying point around which people gathered.

Now, sovereignty makes self-determination possible. In a post-World War I era, the Poles, Italians and other self-determining people are able to rule over a territory. When nations of people do not have the ability to make decisions on their collective lives, they are constricted by the will of others without the understanding or expertise necessary to legitimately govern with authority. Hence, if nations are not sovereign, they cannot be self-determining. Self-determination is thereby an important benefit of sovereignty as it empowers people to live under a government that recognizes its cultural and political needs.

8.2.2 International Recognition and Resulting Non-domination

The second benefit of sovereignty discussed in this chapter is international recognition. International recognition is the acceptance by other sovereign states of a

government's right to rule over a territorially bounded community and the agreement of those same states to interact with the state as an equal (United Nations, 2015, Article 2). As equal participants in the international state system, states are assured that they will not be dominated by another state without (at least) first obtaining authority from the international community to do so.

Furthermore, when a state is internationally recognized, self-determining people have an outlet for their collective will. Recognition matters to sovereign states because it empowers them to realise their future (Iser, 2013). Accordingly, national governments act on the authority of those self-determining people on external and internal matters of state. States are therefore able to govern within their territories on the will of their own people, free from external domination.

8.2.3 Coercion: Political Rights, Security and Cooperation

To explain the benefits of state coercion I will first explain what coercion is. I will then set out three specific benefits of coercion: political rights, security and cooperation. Coercion is a means by which one's intentions are forced onto another's actions. At the state level, coercion may involve the use of physical force via the police or military. It can also include things like tax collection through which funds and services are distributed back to the population and through which society is able to flourish (Fabre, 2012, p. 27). State coercion is also one important means through which a government imposes societal norms on a population. Individuals within a state willingly give up certain freedoms and responsibility in deference to that state. Through coercion, laws can be enforced and thus, it is argued, order is possible.

Order, of course, is valuable to those who live within a state. In exchange for an individual's total freedom, the state agrees to provide political rights, security and cooperation. This agreement ensures a society's civility and the people's continued cooperation with the state and other co-citizens (Lloyd & Sreedhar, 2014).

The first benefit of coercion to be discussed in this section is political rights. Political rights are entitlements which enable human persons to live freely within the legal apparatus of the state and include such things as free speech, the right to vote, freedom of assembly, freedom of expression and other similar freedoms (United Nations Enable, 2004; United Nations, 1976). Free speech and other political rights are not possible without the state's ability to arrest or detain those who would stop others from exercising their freedoms. Indeed, states enforce rights through the use of force where necessary.

The second benefit of coercion is security. In exchange for following the rules set out by a sovereign government, individuals should expect a certain level of security. The state's ability to coerce is linked to its legitimate control of violence within the state and, if the need arises, toward foreign enemies.¹²⁶ Because the state maintains the legitimate control of violence it can use force to coerce and punish those who threaten state security.

People accept the state's authority to use force. Accordingly, people are less willing to threaten state security and accept the state's claim on the control of violence where necessary. So, with the ability to coerce people within a society a state is able to provide security to its people. Hence, the security offered by a sovereign state

¹²⁶ For more on a state's control of the 'means of violence' see (Giddens, 2002, pp. 10-18).

domestically can mean local and national law enforcement. It can also mean reinforcing flood barriers ahead of hurricane season to provide security for a population living below sea level.

The state is also the primary provider of defence against foreign domination. The state maintains a military for warfighting and protective response against external enemies. In a non-military capacity, the state also maintains an official diplomatic presence so as to defend the interests of the domestic population. A sovereign state's remit as to providing security is therefore significant. Through the legitimate use of violence and ability to coerce in general, sovereign states provide individuals with expected levels of security.

The third benefit of coercion discussed in this chapter is cooperation. State sovereignty creates an environment in which citizens can cooperate towards a mutually desired society. Cooperation occurs because we trust that the state will act on our behalf if someone does not follow the rules. Those who do not cooperate with the mutually agreed upon rules, for example, those who commit a burglary or fraud, will be punished. Likewise, each person cooperates with the rules of the society because each person wants to reap the rewards of a mutually supportive society.

For example, a state can require the payment of taxes through the threat of prosecution. These taxes contribute to the development and maintenance of communal, public goods such as education or roads. Hence sovereignty empowers a government with the authority to make and enforce rules. Sovereignty is valuable because of the public goods that result from the establishment and enforcement of these rules.

And so, the benefits of a sovereign state's use of coercion are political rights, security, and public goods. Cooperation and adherence to shared norms of practice leads to stable and productive states and allow for satisfactory individual lives. Sovereignty, through its ability to coerce, therefore offers a means of achieving mutually beneficial cooperative goals.

8.3 Sovereignty-Based Objections to Natural Disaster Interventions

Sovereignty can therefore be understood as beneficial and worth maintaining. The overriding theme of any sovereignty-based objections to natural disaster interventions would be that external interventions undermine state sovereignty and thereby threaten the benefits gained from it. So, when a foreign government interferes in the affairs of a national government it is interfering with the desires of a self-determining people. By extension the foreign interveners are not respecting the state's right of non-interference and thus not recognizing its equal status in the international community of states. Most importantly, if a state's authority is undermined it loses its ability to effectively coerce its people and therefore to provide political rights, security and cooperation.

Using Cyclone Nargis (2008) as a case study, in this section I will discuss possible sovereignty-based reasons as to why the international community objected to intervening. First, diplomacy is and should continue to be the central mechanism for the international community to provide assistance when a national government is unable or unwilling to provide assistance to its people as it maintains balance within the international system of sovereign states. Second, any intervention for the

purpose of natural disaster response can be seen as aggression against a sovereign country and hence an act of war.

First, some argue that international peace and security – a good made possible by sovereign state coercion (see Section 8.2.3) – is best served by *not* using force and creating more conflict in the world. Hence, any intervention would damage the peace and stability of the country receiving the ‘aid’ as well as those countries which would be drawn into the ‘fight’ to deliver assistance in the aftermath of a natural disaster against the wishes of the affected state (Asia-Pacific Centre for the Responsibility to Protect, 2008). Accordingly, any intervention into a sovereign state could lead to a destabilization of the international state system made possible by sovereignty.

Instead, the most appropriate mechanism for addressing response needs after a natural disaster is to adhere to sovereign norms of non-intervention and rely on diplomacy. If all states are equal in the international system of states, then states should be able to negotiate with each other in order to provide for the needs of those affected by a natural disaster and those who would suffer from the knock-on effects of the emergency. Countries like China, for example, argued that diplomacy was a more appropriate mechanism for getting the Burmese Generals on side and getting necessary aid to the Burmese people (Asia-Pacific Centre for the Responsibility to Protect, 2008, p. 9). Proponents of diplomatic means further suggest that bringing an end to human suffering through peaceful means would lead to assistance being delivered to those affected faster and more effectively (Thakur, 2008). Hence diplomacy, and not intervention, is the most appropriate mechanism by which to get assistance to natural disaster affected humans. Diplomatic discussions will further

strengthen the sanctity of sovereign statehood by engaging in negotiations with equally (internationally) recognized sovereign states.

The most extreme argument against natural disaster intervention is that intervention can be seen as an act of war the goal of which is to conquer, destroy, or at least drastically change the political and social environment. An intervention in certain natural disaster scenarios, it is argued, would have established the intervening power as the highest authority. If we had intervened in Burma after Cyclone Nargis, we would have bypassed a sovereign government and undermined the Generals' ability to respond to the disaster effectively. After foreign aid was allowed in to Burma, some humanitarian workers claimed that mass starvation was not the problem it was thought to be (Cohen, 2008). The national government may therefore have been correct that external assistance was unnecessary. Hence an intervention would have been a violation of Burma's sovereign right to administer internal matters and would have ignored the political decisions made by self-determining people as to the structure and political norms of their government.

Furthermore, a natural disaster intervention could result in a new kind of colonialism (Axworthy, 2008). Even when sovereignty involves only limited authority (as opposed to ultimate authority), a forced domination of a people within a geographically-bounded space will undermine the legitimate authority of the state government to rule. This will have cascading effects on the international system of states and their ability to rule within their own territories. Hence, the security that sovereignty allows for would be jeopardized.

These assumed consequences of natural disaster intervention are supported by many experts around the world. The potential loss of international peace and security, political rights, and security should cause us hesitation when deciding whether or not to intervene. However, there are counter-arguments to these objections critics of intervention have often ignored. So, in the next section I will explain why an intervention for natural disaster response is still permissible in relevant cases despite claims of the sanctity of sovereignty (Chopra & Weiss, 1992).

8.4 Responding to the Objections

In this section I will respond to the sovereignty-based objections to natural disaster intervention as outlined in the previous section. I will first argue in Section 8.4.1 that arguments against interventions cannot be based on the sanctity of sovereignty. In particular, in situations where there is a failed state or where a state is unresponsive sovereignty is already diminished and thus cannot be the reason for not intervening. In Section 8.4.2, I will argue that the international community can provide the same goods as sovereign states and hence the international community has the obligation to do so when a state is not acting on its sovereign duties. In Section 8.4.3 I will argue that, in defending sovereignty, critics of my thesis have ignored the fact that the human right to a minimal level of welfare is more important than sovereign authority.

8.4.1 Unable/Unwilling to Assist Own People

In Section 8.1 I explained that two essential elements of legitimate political authority are the ability to coerce and the right to be obeyed which must be based on the

legitimacy of the sovereign state. This means that if a state lacks either the ability to coerce or legitimacy to make demands on the people, then the state cannot be a sovereign state. If this is right, then there can be no objection to intervention in cases in which a state either has no power to coerce or it lacks moral legitimacy to govern insofar as sovereignty is concerned.¹²⁷

With that in mind, I will begin by arguing that interventions into failed states in the aftermath of a natural disaster do not conflict with norms of sovereignty. Failed states do not have the ability to coerce and thus they fail to have political authority. Second, I will argue that states unresponsive to offers of assistance are not carrying out their sovereign duties to provide for the security of their people and hence they are not legitimate and thus have no right to be obeyed. As a consequence, sovereignty cannot be used as an objection for natural disaster interventions in these types of scenarios.

Let us first consider a situation in which the government (and possibly the economic and social structures) of a sovereign state have collapsed leaving the people of that state with a political vacuum. The people, while still at least in principle self-determining, no longer have a mechanism through which to carry out their will as there is no state acting on their behalf. A collapse of a government would qualify a country as either a fragile or, more likely, a 'failed state' (Fund for Peace, 2015). According to the *Failed State Index*, those acting to promote national recovery will need to revive the "core five' institutions: military, police, civil service, the system of justice and leadership" (Fund for Peace, 2015). A total state collapse means that a

¹²⁷ When a state is legitimate there may still be grounds for intervention based on human rights norms. This third hurdle for determining whether intervention is permissible insofar as sovereignty is concerned will be discussed in Section 9.4.3.

government is no longer self-determining and there is therefore no sovereignty to be respected.

In 2010 Haiti ranked 11th in the world on the Failed State Index (The Fund for Peace, 2010). State legitimacy and human rights are two indicators used to establish a state's ranking. When a state like Haiti ranks high on the scale, as it does, it has a high crime rate and endemic corruption. It also has low citizen confidence which often means that the state is unable to exercise its coercive powers including its authority to collect taxes (The Fund for Peace, 2014, p. 11). Accordingly, state finances are in disarray. As for human rights, failed states are characterized as having widespread state-administered political oppression (The Fund for Peace, 2014, p. 13).

When the earthquake hit Haiti in 2010, it was already in political and economic upheaval. With a state in this chaos, it lacks legitimate political authority because it does not have the ability to coerce and thus there is no sovereignty to be respected. Those providing assistance in Haiti did bypass the government in some ways but the international community did not undermine the sovereignty of the country as the country was not sovereign in the first place.

The second type of situation in which intervention may be permissible insofar as sovereignty is concerned are those cases where a government is unwilling to provide for the needs of its people.¹²⁸ Assistance may be refused because of inflated egos

¹²⁸ It is of course possible that assistance is turned down because it will overwhelm the local responders. Wealthy countries often already have access to all necessary goods and it is simply the logistics of getting goods in situ that is preventing assistance getting to those affected. In other situations, goods may be offered but not required. For example, countries donated rice to Sri Lanka after the Boxing Day tsunami. Much of that rice would go uneaten. The country was expecting a

("Our country provides aid – we don't take it from others"). A refusal may also stem from an inability to see the true status of the situation due to a "fog of war". Often (incorrectly) attributed to Clausewitz, the 2003 film, *The Fog of War* provides a more modern explanation of the term (Kiesling, 2001). According to Robert McNamara, the "fog of war" is when conflicting messages, fear, time delays, egos, and lack of knowledge cloud the judgement of policy makers (The Fog of War, 2003). Decisions made within "the fog of war" are not always logical. In some situations the fog of war can refer to a disregard for the suffering of the affected people. It could also refer to resistance to outside influences in order to maintain tighter control over the government.¹²⁹

As I argued in Section 8.1, a state must have moral legitimacy in order to be sovereign. If a state is unwilling to meet a minimal moral standard to its people, it can be said to lack legitimacy. It follows that if a state lacks legitimacy it does not have political authority and hence the state is not sovereign. In effect, it has voided the terms of the agreement under which citizens accept state coercion.

We can take an unwillingness to respond to offers of assistance or declining offers of necessary assistance as non-adherence to the norms and obligations of sovereign statehood. In an emergency, an affected population will have certain needs which the government has a duty to fulfil (see Section 5.2). A state which does not request necessary aid is not providing for the needs of its people and is therefore not

"bumper harvest" of rice and thus could rely on the domestic rice market (BBC Sinhala, 2005). The rice market needed to re-stabilize after the natural disaster in order for people to regain their livelihoods and a sense of normality.

¹²⁹ Any such resistance may exist as a result of fear of losing sovereignty or to hide the inner workings of a specific society. Evidence of similar types of resistance to foreign assistance can be seen in the case studies of Chapters 2 and 3. In the Horn of Africa countries, for example, expelling international NGOs from a disaster area may have been based on fearful and selfish motives.

providing for the security of its people. Unwillingness to provide for the needs of its people is a direct violation of its sovereign duty to provide for the security and rights of its people. Therefore, a state has lost its right to rule because it does not fulfil the associated duties; it is not legitimate and sovereignty is not present in a way that it can be violated.

In this section I have argued that there are two domestically-focused reasons why the sovereignty-based objection to intervention fails. I first explained that failed states are not exercising sovereignty in the usual way and hence an intervention is not a violation of sovereignty. I next discussed how countries which reject assistance are not upholding the norms of the sovereign state system and hence cannot be said to be acting on legitimate political authority. Accordingly, the international community may act with political authority in these types of scenarios.

8.4.2 International Community Can Provide Public Goods

One further reason to reject the sovereignty-based rejection of intervention is that the intervening global community can provide the public goods usually provided by sovereign states when a state is unable or unwilling to do so themselves. Actually, the international community has the ability to (and already does) coerce and to provide security and public goods. I will address the points that the international community can coerce states (and individuals) and that the international community can provide the same public goods in the discussion that follows.

First, the international community coerces states to adhere to international norms and enforce human rights.¹³⁰ For example, states adhere to international regulations regarding war crimes and conflict. States use of the Oslo Guidelines, even if only limited use, demonstrates a tacit acceptance of international coercion in the realm of natural disaster relief. This acceptance of international guidelines by states means that the international community can assist those individuals states are unable to assist themselves.

Second, the international community is capable of providing social and physical security to states which would be necessary in the aftermath of a natural disaster. In the Haitian case study, peacekeeping forces were trying to restore political stability by setting a policing agenda and suppressing violence where possible (United Nations, 2013, p. 7). The international community is (still) working to provide for the political stability and physical security of average Haitians, despite perceptions that it is acting as an occupying or at least interfering force (United Nations, 2013, p. 7). Here the international community has a legitimate authority to support the needs of those affected and restore state authority to rule.

While it is the public goods made possible by sovereignty that are valuable, the international community can (and will) provide these goods when a state is unable to do so.¹³¹ Most often the delivery of such public goods happens in times of conflict or

¹³⁰ I am focusing on the role of the international community and not that of local governments. Whilst limited sovereignty may involve the expertise of local officials, a policy of intervention requires that we consider the role of the international community specifically. Additionally, coercion of the kind I describe in this thesis, and the corresponding public goods that result, are more appropriately applied to structures of international governance. I am not discussing this kind of authority existing at the local level because local officials do not have the expertise or capacity to respond on the scale required.

¹³¹ However, the international provision of public goods is not desirable in ordinary circumstances, only when they are not being provided otherwise. Accordingly, it is the sovereign state's role to provide public goods; this makes the sovereign state valuable.

war. Despite the difference in circumstances surrounding conflicts and natural disasters, in both emergencies humans require security as well as basic goods such as food, water and shelter. The international community can and does provide public goods in emergency situations without calling into question the sovereignty of the state affected. This is because it is understood that other states have the authority to coerce in specific emergency situations when mandated by the international system of states. Equally, then, the benefits gained from state sovereignty cannot be used as an objection to intervention.

8.4.3 Human Right to (Minimum) Welfare is More Important

Thus far I have explained why we can reject the sovereignty-based rejection to intervention. As a further response to criticisms of intervention, I will now argue that interventions for natural disaster response are permissible because the human right to basic welfare is more important than claims of sovereignty. Indeed, at a certain point in a disaster, discussions regarding whether sovereignty will be breached by an intervention should become secondary to concerns over the loss of life and the amount of suffering resulting from the disaster. It is indeed reasonable to suggest that sovereignty may be infringed upon if there are more important human rights at stake (Dobos, 2012, pp. 35-36). In this section, I will argue that the sovereignty-based objection to intervention in relevant natural disaster scenarios can be rejected because the human right to a minimal level of welfare is more important than the political rights made possible by sovereignty. Indeed, without the basic minimum goods associated with the human right to welfare political rights will be unachievable.

In this thesis I am particularly interested in the human right to minimum welfare – which includes access to food, water, basic shelter and basic medical care – as being fundamental to the enjoyment of all other human rights. The right to these goods has the highest priority amongst rights because without minimum welfare, political and economic rights are impossible (Nickel, 2013, p. 24; Shue, 1980). Take for example the right to protest. If a group of people wants to strike or march against discriminatory practices in the workplace of a certain industry, they have the political (and human) right to do so. However, if those discriminatory working practices have resulted in people going hungry or not being able to afford their home, protesting becomes less important. People need to eat before they are physically able to march against harassment or low wages. Hence the human right to basic levels of welfare – making sure that people have food – is more important than making sure they can protest and exercise certain political rights.

Arguably then, human rights are the central guide for fair and peaceful coexistence in the global society. Sovereignty is only a secondary consideration. The peace supposedly made possible by sovereignty requires that people's basic needs are being met. Hence basic welfare must be prioritized over sovereignty in order for any of the goods of sovereignty to be realised. If humans are hungry, for example, they will defy curfews and risk imprisonment for stealing in order to obtain food. If people are not able to participate in society (because of hunger, disease, or homelessness) then the political right to do so is irrelevant.

According to Maslow's hierarchy of needs food, water and sleep are among the most basic of human needs. He argues that someone who has lost everything else will require that her physiological needs before she is capable of pursuing higher level

needs (Maslow, 1943). The benefits of sovereignty – political rights, security, and cooperation (as explained in Section 8.2.3) – are higher level needs and would be “pushed into the background” with other capacities that do not help individuals survive in the aftermath of a natural disaster (Maslow, 1943, p. 373).

Hence sovereignty is less important than the human right to basic welfare because the benefits gained from sovereignty are not as important as food, water, shelter and basic security. As explained in Chapter 4, an intervention is required when people are denied the goods associated with basic welfare in the aftermath of a natural disaster. Hence, any objection to intervention based on sovereignty must consider the impact non-intervention will have on the human rights of those affected. Indeed, (as explained in Chapter 4) human rights are of a higher priority than all other political considerations including sovereignty.

8.5 Intervention Can Bolster Sovereignty

In Section 8.2, I discussed an intervention’s capacity to restore domestic security and political rights. Taking this point further, an intervention can be said to help restore sovereignty in the aftermath of a natural disaster. I will now explain how an intervention can be justified on the grounds that it would restore international stability within the sovereign state system.

So, Chapter VII, Article 42 of the UN Charter authorizes the use of force to “maintain or restore international peace and security” (United Nations, 2013). Allowing the systemic abuse of human rights undermines the system upon which human rights are established. When crimes that ‘shock the conscience’ of humankind (genocide,

human rights abuses, and other crimes against humanity) occur they threaten the balance of international peace and security. Likewise, the justification used for breaching sovereignty via the Responsibility to Protect (see Section 6.2.4) is that we have a duty to those affected over and above those duties to maintain state sovereignty (Haider, 2013).

Now, consider a scenario in which the international community disregards its responsibilities under the UN Charter and the Responsibility to Protect. Non-intervention to stop various crimes against humanity would suggest that the laws of the international community do not need to be followed. This would undermine current systems of global governance.

Also, non-intervention to alleviate human suffering would suggest that sovereignty is more important than humans. Non-intervention would undermine the reasoning used to justify the implementation of the Responsibility to Protect and therefore call into question the application of RtoP principles in future situations of genocide, human rights abuse and humanitarian emergencies. International peace and security are only possible when global norms and laws are followed. Not intervening would thereby threaten the balance of international peace and security.

My point in this section is not to argue for intervention on the grounds of human rights abuses. That argument was made in Section 6.3 and in Section 8.4.3. Rather, if we do not intervene in situations where individuals are at great risk of death at the hands of their government then we are saying that sovereignty is more important than the peace and security it was intended to create. Evans has argued that overuse of RtoP would bring about an 'evaporation' of the new norm for intervention

which supersedes the norm of sovereignty (2008). Equally, though, I argue that non-intervention on behalf of those affected by a natural disaster reinforces the norm of non-intervention because of sovereignty. If we want to continue to move forward from arguments in favour of the primacy of sovereignty than we must take a stand on the rights of humans in all types of emergency situations – not just those dictated by RtoP. It follows, then, that deaths caused by natural disaster when a national government is unable or unwilling to provide certain goods undermines international peace and security and thus requires intervention from the international community in the same way as other crimes against humanity require intervention.

In sum, non-intervention for natural disaster scenarios undermines the justification used for intervention in those situations for which RtoP is invoked. Non-intervention in natural disaster scenarios for reasons of sovereignty equally throws into question the broader norms established by the UN Charter which were developed to maintain international stability. Hence, in order to maintain international peace and security, natural disaster intervention is required.¹³²

8.6 Conclusion

In this Chapter I first explained what sovereignty is: political authority within a geographically bounded area. I then outlined the benefits of sovereignty. These include such things as self-determination, international recognition and, through a sovereign state's ability to coerce, political rights, security and public goods. Indeed,

¹³² Dobos defends paternalistic intervention as follows: "Where people are denied freedom of expression, freedom of the press, freedom of association, the right to an education and so on, can they make fully informed decisions as to their preferred socio-political arrangements? If the answer is no, then even if the subject of an illiberal state do happen to genuinely fit their government, it is arguably still permissible for outsiders to intervene on their behalf based on judgements about what they *would* want if they *were* in possession of all the relevant information and able to reason freely" (2012, pp. 44-45).

sovereignty provides valuable goods to individuals and offers a mechanism for the maintenance of international order and security.

Because of the benefits gained from sovereignty, it can be argued that intervention is impermissible in certain natural disaster scenarios. Interventions can undermine the wishes of a self-determining people. They can also lead to increased violence and threats to international peace and security. An intervention for natural disaster response could also undermine a state's authority to coerce its people and hence disempower the state's ability to provide public goods such as security and political rights.

These are important objections. However, in Section 8.4, I responded to these objections by making the case that some in failed state scenarios and when governments are unwilling to provide for the needs of their people, sovereignty is not the objection to intervention is sometimes said to be. Sovereignty-based objections to natural disaster intervention misinterpret sovereign authority and its subservience to the goods associated with the human right to minimum welfare. Indeed, sovereignty is not the barrier to intervention it is often argued to be. Those affected by a natural disaster require assistance when their government is unable or unwilling to provide for their needs. It is thereby impractical to disallow an intervention on grounds of sovereignty, traditionally understood.

CHAPTER 9: CONCLUSION

In this dissertation, I have argued that there are cases in which we are morally required to intervene in the aftermath of a natural disaster when a government is unable or unwilling to provide necessary support to its people. I argued that the human right to welfare is just as important in the aftermath of a natural disaster as it is under normal circumstances and thus the international community has a duty to respond. At a minimum, we are morally required to develop a policy that guides natural disaster intervention which accounts for the duties associated with the right to welfare.

To that end, I have argued for the creation of a natural disaster military intervention policy. We already have military intervention policy for genocide and large scale human rights abuses. There is no fundamental moral reason why we are not prepared to intervene for those affected by natural disaster as well.

I based my argument on real world scenarios and carried out a comparative analysis of five countries. If we genuinely understand what has happened in previous disasters, it becomes clear that the view I have defended in this thesis is relevant for real situations and real casualties of natural disasters. In Haiti, for example, there was a failure of leadership and poor integration of civil society into official channels of assistance. The international community had to step in when the national Haitian government was overwhelmed by the earthquake which destroyed 60% of government offices in Port-au-Prince in 2010 (See Section 2.2). Also in Haiti, many civil society groups felt disrespected by official government assistance as much of the information passed to citizen groups was in English, which is not an official

language of Haiti (see Sections 2.2.3 and 3.4). Citizens became distrustful of their government and silos of unintegrated assistance existed. The international community had a role in supporting affected citizens even though this was not considered an intervention. Accordingly, we can see that there is a role for the international community when a government is unable to help its citizens.

However, preparedness for future similar, natural disaster situations requires that we create a *specific* role for the international community. This will allow for the integration of national lessons learned into international response plans. Together, preparedness measures will be better positioned to make a difference in the lives of those affected by natural disaster.

I described the Pakistan earthquake of 2005 as another instance of the problems that can emerge after a natural disaster. Here, I scrutinized the role of the military (See Section 3.3) in this particular disaster. According to the Oslo Guidelines, militaries should support national efforts to provide aid during a natural disaster, but they should not be leading the disaster relief. Pakistan's military, however, did step in to lead the natural disaster response. They were highly praised for their work but such assistance still raises concerns about the future role of a military in national governance and assistance.

I then explained the drought situation in the Horn of Africa in 2010-2012. In this case, the leaders of the affected countries did little to adapt how assistance was provided, even if the death count continued to rise (See Section 3.2). In addition to providing poor support, some national leaders rejected offers of assistance from civil society

organizations and ousted agencies like the Red Cross from the country (Section 3.4).

Finally, I provided evidence of the mistakes that can happen in highly developed countries with robust natural disaster response plans and infrastructure to support its people. Hurricane Katrina struck the states on the coast of the Gulf of Mexico in 2005. In the aftermath of the storm, the White House argued that assistance was too slow in getting to the individuals affected by the storm. As a result, the US Government decided that the military, with its strong logistical capacities and stockpiles of supplies, would be pushed into a natural disaster response operation (Section 3.3). While still technically in line with the Oslo Guidelines, this new directive called into question how and why a national government will support its own people and what this will mean to the stability of the country in the long term. The United States also had problems with civil society, which contributed to a muddled response and recovery (Section 3.4). For example, in some areas with high voting turnouts and close connections between locals, people were able to keep the displaced people out of their neighbourhoods thus undermining the government's efforts to relocate survivors.

Taken together, these case studies show that even the most prepared countries may fall short in their ability to provide assistance to those affected by a natural disaster. Leadership deficits, a failure to integrate civil society, and questionable use of the military are simply three of the many ways in which national governments might fail to provide adequate response post-natural disasters. I argue that one of the most important things for us to learn from these lessons is that there is a definite need for a natural disaster intervention policy based on the lessons of the previous disasters.

An international military response which provides leadership and adequately integrates civil society is thus required.

Indeed, the international community must prepare for a situation in which it is necessary to protect the human right to welfare of those affected. I thus explained that the creation of a policy which ensures that humans have a basic level of welfare in the aftermath of a natural disaster is ethically required and appropriate. First, the human right to welfare creates a duty for the international community to act on behalf of the affected. I argued in Chapter 4 that grounding the human right to welfare in our humanity is necessary so as to account for the universality, high-priority nature of rights. Creating a universal policy based on the human right to welfare grounded in our humanity gives us an opportunity to provide assistance to all those in need of post-natural disaster assistance.

Now this is not to say that the international community should intervene in every natural disaster scenario. Each natural disaster where the basic provisions are not being delivered by the national government must be weighed on its own merit and in its own time against a set of criteria such as the just war criteria (Section 7.2). Political will, capacity to respond (say if there are many disasters happening at the same time), and the ability of a national government to support its own people with only non-force assistance from the international community must all be weighed. However, this does not imply or justify the delivery of assistance to some but not others. Instead, we must understand when the international community is morally required to intervene militarily and make every effort to adhere to the responsibilities stemming from the human right to welfare.

Of course, there are many concerns about an intervention policy for natural disaster scenarios. As explained in Chapter 7, the possibility of imperialism, long term effects of an intervention, dirty hands, the demandingness of an intervention and the lack of political will are all possible objections to my thesis. However, as argued in Chapters 6 & 7, intervention is appropriate and required in some cases. The just war criteria outlined in 6.2.2 and 8.2 offer a morally sound way of approaching natural disaster response.

The reader will note that, throughout my thesis, I have accepted that my suggestions will be politically difficult and may cause a loss of innocent lives. These are hurdles to a military intervention policy for natural disasters. These hurdles are not, however, moral justification for not developing an international policy for natural disaster intervention. Likewise sovereignty is not a moral barrier to a natural disaster intervention. The moral justification I have provided in this thesis depends on the human right to welfare and the fact that there are associated duties regardless of an affected person's geographical location. Accordingly, the international community has a duty to (at least prepare to) supply the goods associated with this right to welfare in the aftermath of a natural disaster. The implications of following and integrating my argument into global disaster policy will be strenuous and cumbersome. However, natural disaster intervention is a morally sound and thus required mechanism for supporting those affected by a natural disaster in some situations.

So as to prepare the international community to act on its second-order responsibilities to protect the human right to welfare in the aftermath of a natural disaster, I recommend the following as a way to develop an international natural

disaster intervention policy and response plan. First, what my suggestion will not include. Importantly, I do not suggest the inclusion of natural disasters into the Responsibility to Protect (RtoP) norm. As others have argued, such an inclusion would possibly undermine the political will to use RtoP in cases of genocide, human rights abuse and humanitarian emergencies (Thakur, 2008; Evans, 2008). Whilst I do not think there is a finite amount of political will in the world, I would not want to take that chance. Likewise, I do not here propose the development of an international law. Very recent attempts at creating laws which account for the international community's second-order responsibilities have failed (Tokunaga, 2014). Another attempt, so soon after the failed attempt, would be unproductive. Additionally, the RtoP is not law and is efficient as is; a policy for natural disaster intervention would likewise be sufficient.

So instead I suggest the creation and implementation of a separate natural disaster intervention norm and associated policy which can be debated on its own merits without calling into question the continuing validity of RtoP. In what follows, and in line with what I have argued is necessary throughout this thesis, I will briefly outline my suggestion for the development of a new norm for intervention as well as a corresponding policy and response plan.

Considering the international community's adamant position that disaster assistance should be the primary responsibility of the national government affected, I do not believe it wise to try and develop an intervention policy as argued for in this thesis at an international forum or through international legal structures.¹³³ Instead, one

¹³³ In 2007, the International Federation of the Red Cross established the *International Disaster Response Laws* and received unanimous support from the parties to the Geneva Convention (IFRC,

country will have to initiate such a norm development and petition for it at the international level. (Ireland may be an appropriate choice given its negotiation skills and the fact that it is relatively untarnished by recent military invasions in the Middle East.) Indeed, such a policy as I suggest in this thesis will only be possible if there is a continued normative shift away from the primacy of sovereignty and toward the primacy of human rights in international politics. The norm that would develop would recognize the international community's responsibility to respond to violations of the human right to welfare in the aftermath of a natural disaster. This method was successful for Canada's International Commission on Intervention and State Sovereignty when they developed the Responsibility to Protect doctrine as it was then adopted by the United Nations (ICISS, 2001). Furthermore, to be consistent with cosmopolitan justice, an ethical policy for natural disaster intervention must be established with broad buy-in from national governments. Only then will any policy as I argue for be built on the right authority (see also Section 7.2.5).

So, before developing a policy, the lead national government (again, Ireland may be appropriate), with the help of academics, practitioners and other experts, will work diplomatically across bilateral and multilateral relationships (to include both would-be interveners and those likely to receive an intervention) to build in-principle support for natural disaster intervention. The lead country will need to bring about consensus from a majority of the international community on two distinct issues: (1) that it is the international community's obligation to protect the human right to welfare and ensure

2007). These laws firmly established the role of 'domestic' responders and the associated national government. Likewise, from 2007-2014, participants of various panels of the UN's International Law Commission decided that disaster relief should remain the responsibility of states solely (also see Section 7.3.5) (Tokunaga, 2014). This decision was made after several attempts to bring international disaster relief legislation together at the global level.

that humans have access to basic goods of food, water, shelter and basic medical care; (2) that when a national government is unable or unwilling to ensure such access in the aftermath of a natural disaster, an intervention is morally required.¹³⁴

Once a consensus has built that such a norm exists and an associated policy is necessary it should be brought to the international community as a finished product in the form of a policy document. Any debate or problems with the policy as developed should be (mostly) ironed out in the diplomatic negotiation phase. Concerns about possible imperialist intentions, detrimental long term effects, dirty hands, the demandingness of such a policy and political will (Section 7.3) will have all been discussed during informal negotiations and addressed in the policy before submission to the international community. Adoption of an international natural disaster intervention plan will then be imminent.

At this stage, with a policy decided, the international community will be prepared to act on their duties in the midst of any future large scale natural disasters. This means that there will be a plan in place to save humans from unnecessary suffering in the aftermath of a natural disaster, thus filling the objective of this thesis. What is left is to decide what will trigger the use of such a plan and how it will be operationalized.

So, an intervention must be justly determined to be necessary. There will likely be a large number of people suffering which will represent a large scale human rights violation and thus a just cause for intervention may be determined (Section 7.2.2). A respected, well networked international disaster organization should be given the

¹³⁴ Broad consensus building will thus ensure that the policy resulted from a right intention (Section 7.2.6) and a right authority (Section 7.2.5) in the development stages.

authority to decide when an intervention is required. OCHA responds to humanitarian emergencies and thus has the practical experience to determine on-the-ground priorities, coordinate and address concerns/objections to an intervention raised by those in the international community contributing to the response (see Section 7.2.7) and develop the appropriate response. Hence, I argue that a sub-office of OCHA should be developed for the coordination of multilateral agreement that an intervention is necessary in line with just war criteria set out in this thesis (Section 7.2) and to be included in the actual policy. That office can then pull from its own resources and expertise to carry out the intervention.

Once it has been decided that an intervention is necessary, the right authority must do the intervening. An intervention would need to be carried out under the control of the Office for the Coordination of Humanitarian Affairs together with the Emergency Response Coordinator (see Section 7.2.5). As OCHA and the ERC already have the authority to manage international disaster relief they are the obvious choice to manage or at least liaise with the militaries that will deploy in response to a natural disaster. Such a military force should be similar in scope and mission to that of the 'white helmets' suggested by cosmopolitans as an international military force whose mission is to respond to international peacekeeping missions (see Section 1.3.2) (Archibugi, 2004).

Realistically, implementation of my thesis will not happen soon, nor will it come about without controversy or objections (as I respond to in Section 7.3). In the short term, developing the idea of natural disaster intervention policy further will be a challenging task in itself. I recognize that this is actually a decades-long project. I will continue to

make my case through articles and in public forums. Hopefully, all the right people in all the right offices will eventually hear this argument and be persuaded.

My next steps involve articulating the norm and making the argument in different ways to different audiences so that a lead country will step forward. I have an interdisciplinary audience in mind and thus will distribute this thesis to philosophers, political scientists and development studies academics in hopes of creating a vast network of people and departments with different backgrounds in military intervention for natural disasters that support my argument.

After that, international support must be garnered. Prime Minister Blair made an impassioned speech in 1999 in which he explained that the United Kingdom, and indeed the world, had a 'responsibility' to protect those suffering at the hands of their government (Blair, 1999). In 2000, then UN Secretary General Kofi Annan also spoke publically about the need for action in Rwanda in light of genocides the world did little to stop. He appealed to our common need to uphold human rights and blasted the suggestion that sovereignty should be a hindrance to the effective provision of aid (Outreach Programme on Rwanda Genocide and the United Nations, 2012). If an international policy on natural disaster military intervention is to be established there must be that level of international support. Figureheads arguing publically and forcefully for such a policy's adoption (much like how Blair and Annan did) are necessary - hopefully before a mass atrocity makes the argument for them. Hence, I must reach out beyond academia to public figures who might be sympathetic to my argument. This will hopefully create a conversation about natural disaster intervention as a possibility and inspire a country to take the lead in this policy development.

In the meantime, it will be a genuine achievement if I am able to convince at least some people of the fact that the people who are affected by natural disaster deserve just as much assistance as those who suffer as a result of conflicts. Also, it should be noted that the type of arguments that I have put forward for the development of a military intervention policy for natural disasters can also be used in the arguments for climate change actions and for a reduction in the exploitation of natural resources. This is because the basic crux of my argument and the driving force behind this thesis is the idea that all humans, no matter where they live or what ethnic or socio-economic group they belong to, have a human right to welfare. We are therefore duty bound to make sure that, when preventable events threaten this basic human right, we are at least prepared to respond. A natural disaster intervention policy will offer us a *jus ad interventum* – a pre-established structure and criteria for when engaging in a military intervention for natural disaster is just.

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