Be Careful What You Wish For:
Cosmopolitanism and the renaissance of warfighting.

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Abstract.

This paper is concerned with the relationship between a cosmopolitan responsibility to the other and warfare in the post-Cold War era. The question of the future of political community should not be addressed without taking into account issues surrounding the legitimate use of violence and warfare more generally. There are a number of reasons for this. Firstly, a monopoly on the legitimate use of violence is inherent to a traditional, Weberian understanding of what it is to be a state. Any transformation of the state system necessitates a redistribution of the legitimate use of force. In a post-state based form of political community, where is such legitimacy to be found? Secondly, perhaps the most significant challenges to traditional Westphalian conceptions of sovereignty have been directly related to the use of force, through the developing norm of humanitarian intervention. Traditionally the role of militaries has been conceived of in terms of the protection of the state’s national interest and the defence of state sovereignty. In rhetorical terms at least, the post-Cold War world has seen this conception of the military change. In scholarly terms, these developments have led to the emergent concept of ‘Cosmopolitan Militaries’, military forces that are disengaged from the pursuit of narrow national interests and state survival, and relocated in a role aimed at the protection of human security. In practice however, a human security rhetoric has accompanied a renaissance in actual warfighting, with conflicts taking the form of ‘post-national wars’. These ‘humanitarian wars’ are fought in the name of human rights rather than state survival and justified via a cosmopolitan rhetoric. We would like to argue that those scholars who look towards an emerging cosmopolitan ethos for the basis of a global political community must include an analysis of how cosmopolitan goals are currently articulated in practice when related to the use of violence. There seems to be an assumption that a territorially unbounded politics will be a peaceful politics. This may not necessarily be the case. This paper would ask the workshop to address the need for a self-critical cosmopolitanism. Such a self-critical cosmopolitan must acknowledge the possibility that the legal order upon which its humanitarian hopes is based may itself legitimise or indeed legalise the warfare it deplores.
Introduction

The question of the future of political community should not be addressed without taking into account issues surrounding the legitimate use of violence and warfare more generally. The notion of cosmopolitanism is itself inextricably related to the use of force. To begin with, a monopoly on the legitimate use of violence is inherent to a traditional, Weberian understanding of what it is to be a state. (Weber, 1919) Therefore, any transformation of the state system necessitates a redistribution of the legitimate use of force. In a post-state based form of political community, where might such legitimacy be found? Conversely though, any major shifts in the legitimate use of force whether it be the privatisation of violence or the use of violence for purposes beyond what has traditionally be understood as ‘national security’ or the national interest will themselves necessitate a reformulation of the conception of political community.

Discussions on the transformation of political community also need to take into account that perhaps the most significant challenges to traditional conceptions of sovereignty have been directly related to the use of force, particularly through the emerging norm of humanitarian intervention. There are a number of cosmopolitan scholars within the discipline of international relations, David Held and Mary Kaldor are noteworthy here, who argue that significant moves have already been made towards a cosmopolitan order, or that elements of a cosmopolitan regime, rather than being a utopian vision, already exist. Such a regime is embodied in the law of war, the laws surrounding war crimes, crimes against humanity and genocide as well as the laws that have helped create a so-called human rights regime. The institutions, both inter-governmental and civil society based, tasked with enforcing these laws are the first steps towards an institutionalised cosmopolitan law. These steps have all been taken in response to, or in the service of warfare.

Within International Relations theory, cosmopolitanism is considered an inherently peaceful concept. Most work stems from and tends to elaborate on Kant’s notion of cosmopolitan responsibility towards strangers and the community of fate found within Perpetual Peace. Just as the theoretical links between violence and nationalism are well established, so there seems to be an assumption that a territorially-unbounded politics would be a peaceful politics. According to Mary Kaldor:

Cosmopolitanism refers both to a positive political vision, embracing tolerance, multiculturalism, civility and democracy – and a more legalistic respect for certain overriding universal principles, which should guide political communities at various levels, including the global level. (Kaldor, 1999: 115-116)

The goals of this positive political vision Kaldor goes on to argue are peace, human rights and environmentalism amongst others. Within this paper, we argue that far from working toward the
theory’s pacific end-state goals, this cosmopolitan ethos of human rights and human security has, in practice, been accompanied by a renaissance in warfighting. The problematic concept of ‘Humanitarian War,’ or what Beck refers to as ‘Post-National War’ (Beck, 2005) has emerged, whereby war is apparently fought in the name of human rights rather than state survival and is justified using a cosmopolitan rhetoric.

Whilst we do not wish to suggest that cosmopolitan approaches add no value to debates on how to best address the problems of inter and intra-state conflict, at the same time we contend that scholars who look toward an emerging cosmopolitan ethos for the basis of global political community must also take the time to analyse how cosmopolitan goals are currently articulated in practice when related to the use of violence. There seems to be an implicit assumption that a territorially unbounded politics will be a peaceful politics, this may not necessarily be the case. There is a pressing requirement for a form of self-critical cosmopolitanism. Such a self-critical cosmopolitanism must acknowledge the possibility that the legal order upon which its humanitarian hopes are based may itself legitimise, legalise or actualise that warfare it deplores.

The paper begins by setting out cosmopolitan developments, both in practice and within international relations theory in relation to the use of force with particular focus paid to the emerging concept of cosmopolitan militaries and cosmopolitan law enforcement. It then goes on to try and place these cosmopolitan development within the War on Terror and the liberal cosmopolitan project of the neoconservatives currently influencing the domestic and foreign policy of the White House. This paper has developed out of doctoral research which began life as an exploration and essentially a defence of cosmopolitan law enforcement and cosmopolitan militaries. The constant practical, theoretical and ethical problems encountered in situating this project within the context of the War on Terror leads this paper to make the case for a form of self-critical cosmopolitanism aware of the context in which it is situated and encouraging a greater awareness amongst cosmopolitan scholars of the empirical impact of their discourse.

**Challenging Sovereignty**

Perhaps the most direct challenge to state sovereignty since the end of the Cold War has been the emergent trend towards the legitimisation of humanitarian intervention. The international community’s response to the humanitarian catastrophes of what has been unhelpfully termed, ‘new wars’ has been a military led one, giving birth to what Chomsky referred to as the ‘new military humanism’. (Chomsky, 1999) Today the UN is criticised more often for not intervening on behalf of the international community where there are humanitarian concerns (by the West at least) rather than being accused of interfering with the domestic
prerogative of states. The notion of state sovereignty has begun to transform from one of unalienable right to one of obligation. Within a new normative context which has seen the stronger defence of human rights and a significant development of humanitarian law combined with graphic television coverage of human suffering, the legitimacy of intervention for humanitarian purposes has appeared to have gained support amongst both the public and the international community.

It was the NATO bombing of Serbian targets in Kosovo in 1999 that has caused the most controversy surrounding humanitarian intervention. Much of this controversy was caused because NATO powers, led by the United States and the United Kingdom took the decision to act in Kosovo without prior UN authorisation. The military intervention in Kosovo brought the notion of the legality of humanitarian intervention directly into the spotlight and raised questions about the very utility of the UN Charter in the new international environment.

The Independent International Commission on Kosovo (IICK) (2002) that followed the conflict aimed at redefining sovereignty and the responsibility of states in order to set a clear foundation for the right of intervention by the international community. In the new normative context of the post-Cold War era where states were no longer threatened by external powers, debate about the concept and role of state sovereignty developed. The culmination of this debate has been the 2001 Report of The International Commission on Intervention and State Sovereignty, a project organised by the Canadian Government in response to UN Secretary General Kofi Annan’s calls to the General Assembly in 1999 for a new consensus on the question of intervention, following the controversy of NATO’s actions in Kosovo. The Commission adopted the conception of state sovereignty first developed by Representative of the Secretary General on Internally Displaced persons, Francis Deng, who argued that sovereignty was not absolute. Rather, state sovereignty should be thought of as ‘the responsibility to protect’. In this sense sovereignty is no longer simply the prerogative of the state, it becomes the prerogative of the people. The responsibility to protect implies that the state is accountable in three ways:

First it implies that the state authorities are responsible for the functions of protecting the safety and lives of citizens and the promotion of their welfare. Secondly, it suggests that the national political authorities are responsible to the citizens internally and to the international community through the UN. And thirdly, it means that the agents of the state are responsible for their actions; that is to say, they are accountable for their actions of commission and omission.  
(International Commission on Intervention and State Sovereignty, 2001: 13)
If a government fails systematically to fulfil these responsibilities, then sovereignty is temporarily suspended and the international community must assume the responsibility to protect, which includes the responsibility to prevent, the responsibility to react, and the responsibility to rebuild.

British Prime Minister Tony Blair has himself acknowledged that the notion of state sovereignty should be reviewed in the new post Cold War environment, stating that he was, ‘reaching a different philosophy in international relations from a traditional one that has held sway since the treaty of Westphalia in 1648,’ and declaring in his Doctrine of the International Community that ‘the principle of non-interference must be qualified in important respects’. (Blair, 1999) The Bush administration too, acknowledges a change in the conceptualisation of state sovereignty. The US Embassy explained to the British Committee of Foreign Affairs that ‘over the past decade, we have seen an evolution in how the international community views sovereignty. Simply put, sovereignty does not grant governments a blank cheque to do whatever they like within their own borders. Instead, the principle that sovereignty carries responsibilities is gaining ground.’ (Committee on Foreign Affairs, 2002) The ICISS was an important document as it represented the first significant expression of a cosmopolitan defence of intervention and a reformulation of state sovereignty. Both aspire to a stronger defence of human rights and the support of a more peaceful and responsible international community.

Since the terrorist attacks of September 11th 2001, the New Military Humanism of the 1990s has been superseded by, to use Falk’s term, the ‘neo-interventionism’ of the Bush administration. (Falk, 2004a) Both the major military operations of the ‘War on Terror’ so far have been framed, retroactively at least, within a humanitarian discourse. The military episodes in Iraq and Afghanistan mixed the militarism of the west characterised by the so-called Revolution in Military Affairs (RMA) and humanitarian, cosmopolitan rhetoric. In doing so these wars have prompted commentators to re-evaluate the good war debate. (Lawler, 2002, Shaw, 2001) The post-Cold War era has seen those who have resorted to military force in the West seek legitimacy for those actions on the grounds of humanitarian concerns. The changing normative context that has seen attitudes towards state sovereignty and humanitarian intervention of behalf of the UN shift, has also informed the general understanding that any use of force should be for the good of humanity. In fact, to quote from Lawler,

From the point of view of the key members of the international community at least, armed ‘humanitarian intervention’ is no longer just a form of war but has become virtually synonymous with permissible war itself. (Lawler, 2001: 151)
There was a time when war was considered simply an evil. In the aftermath of the First World War, warfare was, ‘a disaster to be avoided, a crime to be prevented, and evil to be eliminated.’ But the potent mix of humanitarianism and military force in the post-Cold War order has led Shaw to conclude that the twenty-first century is witnessing, ‘a veritable relegitimation of war,’ (Shaw, 2002a: 343.) – and the return of the ‘Good War’:

A renaissance of warfare is one of the most striking features of the early twenty-first century. War, it seems, is no longer the prerogative of international criminals, but the first resort of the righteous. (Shaw, 2002a: 343)

**Cosmopolitan Militaries and ‘Humanitarian Warfighting’**

Parallel to the re-conceptualisation of sovereignty there has also been a re-thinking of the role played by military forces, given the new context of humanitarian intervention. Traditionally the role of militaries has been conceived of in terms of the protection of the state’s national interest and the defence of state sovereignty. In rhetorical terms at least, the post Cold War world and the developing norm of humanitarian intervention has seen this conception of the military change. In scholarly terms, these developments have led to the emergent concept of ‘Cosmopolitan Militaries’, military forces that are disengaged from the pursuit of narrow national interests and state survival, and relocated in a role aimed at the protection of human security.

Building on a history of proposals for a United Nations standing army together with the more recent movement in practice towards armed humanitarian intervention, the concept of the cosmopolitan military has emerged in academic discourse. (See Eliot & Cheesman, 2004) It aims to provide a practical basis for the enforcement of cosmopolitan law and an alternative to the traditionally exclusive association of the military with the pursuit of national interest and state survival. However, the movement toward the theoretical construction of the cosmopolitan military, although ostensibly designed for, and in some cases already performing in practice, a role in support of peace and the protection of human security, could also be employed in support of an alternate, much narrower, and by many a more cynically viewed cosmopolitan project as currently evidenced in Afghanistan and Iraq.

The Cosmopolitan Military concept is itself somewhat contested and discord appears in relation to the most appropriate or plausible ‘breadth’ of cosmopolitanism to be employed. Wider variants focus more on the potential for large-scale change in military ethos and composition away from the nation state and toward a wider human community (Elliot, 2004), whereas ‘narrower’ conceptions look toward a more modest movement pursuing, arguably more
pragmatic, new forms of multilateral military arrangements and rationales for action which are 
not, rhetorically at least, based explicitly on national interest criteria. (Prins, 2004)

Elliot’s exposition of the Cosmopolitan Military concept appears to fall within the 
‘wider’ variant based on the understanding of the contemporary security environment influencing 
the propagation of ‘overlapping communities of fate.’ Elliot argues:

The transnationalising of ‘threat’ through such problems as environmental degradation, 
pandemics, drug trafficking and small arms trafficking, along with the development of a 
transnational public sphere of civil society creates overlapping communities of fate. 
(Elliot, 2004: 18)

This security environment, combined with the development of customary international law 
subsequently creates circumstances whereby the responsibility to protect victims of human rights 
abuse falls to the international community as a whole. (Elliot, 2004: 22) In this understanding 
the global cosmopolitan order is premised upon the development of consent networks and a 
‘proactive cosmopolitanism’ whereby deliberate attempts are made to create consensus on 
international norms and behaviour in order to circumvent claims that cosmopolitan values are 
merely those of the powerful. (Elliot, 2004: 19)

The ‘wider’ conception of the cosmopolitan military sets several key criteria for the 
establishment of an authentic Cosmopolitan Military. From the outset there is an acute awareness 
of the potential problems of ascribing Cosmopolitan status to existing nation state based 
militaries, an area of concerned echoed in the argument of this paper. Elliot contends that:

The humanitarian or cosmopolitan interventions that have become more familiar to 
international politics in the 1990s and the early years of the 21st Century have, at times, 
been compromised both by geopolitical interests and by the unwillingness of 
governments to sacrifice soldier’s lives to save strangers.’ (Elliot, 2004: 24)

Consequently, in relation to its composition, identity and value structures an authentically 
Cosmopolitan Military must be as far detached as possible from the interests and purposes of the 
nation-state and situated under the authority of international institutions such as the UN. (Elliot, 
2004: 24) This in itself reduces considerably the potential role which could perhaps be played by 
‘good international citizen’ states, working to strengthen the society of states and improve 
standards of global justice. (see Linklater, 1992)

The cosmopolitan ethos must also permeate the ways in which the ground level activities 
conducted by the military are undertaken. Elliot argues that:

The deployment of a cosmopolitan force as a means to a cosmopolitan end, and the 
application of a cosmopolitan ethic of solidarity and consent, goes to the heart of the 
military rationale, mission and rules of engagement. 
(Elliot, 2004: 24)
Authentic Cosmopolitan Military activities thus require a shift away from the traditional military practice of warfighting towards methods and tactics better suited to the protection of human security. Greater linkages must be made with local populations and civil society, rather than warring factions, and the core of the military’s activities should centre on creating a secure environment within which positive forms of societal reconstruction can be undertaken: the promotion of democracy, regional stability and economic prosperity. (Elliot, 2004: 25-26)

Although this ‘wider’ conception of the cosmopolitan military appears more of a theoretical concept, rather than an empirically implemented model, there is evidence of an embryonic form of military cosmopolitanism in relation to how soldiers engaged in humanitarian intervention behave at ground level, even if this is not currently reflected in their overall force composition and only very loosely in their ethos. The development of the ‘Peace Support Operation’ concept reflects a movement towards greater engagement of military forces in highly immersive activities focussed on societal reconstruction and the promotion of human security.

Peace Support Operations (PSOs) are a relatively new item in the conceptual toolkit of those concerned with armed intervention in intra-state conflict environments. Drawn largely from ‘lessons learned’ during the peacekeeping operations of the 1990s, PSOs are characterised by a multi-agency approach involving both military and civilian elements focussed on the provision of security, institution building, societal reconciliation and general reconstruction. Making a comparison between militaries practicing ‘traditional peacekeeping’ and the military forces engaged in PSOs, Bellamy argues that:

The purpose of the force is not to police a buffer zone while the belligerents make peace. Rather, it is to provide security, often as a prelude to the creation of an interim UN administration intended to establish a functioning (liberal democratic) state. (Bellamy et al, 2004: 165)

The Peace Support Operation effectively creates a doctrine-defined role for national militaries outside the pursuit of narrow national interest. PSOs are centred on creating conditions conducive to the reconstruction of previously weak, collapsed or conflict affected states into viable sovereign entities. It is a role beyond the simple provision of security or the pursuit of short-term political objectives. Instead they represent, in theory at least, a contribution to the development of a positive conception of peace wherein questions of justice are addressed and steps are taken toward the prevention of structural violence. Ricigliano makes reference to three levels of peacebuilding in post conflict environments: Political, focussed on formal peacemaking agreements between the various political actors; Social, aimed a challenging social attitudes and prejudices which contributed to the outbreak of conflict, and Structural, which aims to construct
or re-build the structures which underlie a peaceful society – good governance, effective rule of law etc. (Ricigliano, 2003: 447) Within a PSO, the intervening military must be able to assist the peacebuilding project at all three levels, cooperating with the plethora of different agencies at work in the conflict environment. The role of the soldier in a PSO is therefore considerably advanced beyond the traditional responsibilities associated with national defence and the pursuit of the national interest.

The development of the PSO as an operational military concept, apparently drawing on cosmopolitan ethics, is underwritten by two key documents. For the United Nations the Brahimi Report of 2000 (United Nations, 2000) makes significant inroads into the formal establishment of the approach. For the armed forces of the United Kingdom the Joint Warfare Publication 3.50 concerning PSOs lays out doctrine for the conduct of such operations by UK forces. (JDCC, 1998)

This shift in official doctrine is important as a wide change is required in the overall approach and composition of military forces in order to effectively undertake PSOs and contribute towards the cessation of conflict and enhanced security in affected societies. Changes are needed particularly in related to the use of force and its perceived efficacy in operational environments. For the effective conduct of cosmopolitan-minded PSOs a progression is needed away from the traditional warfighting role of the military. Military doctrine has historically been rooted in the application of high-impact warfighting techniques in order to defeat completely or at least to deter an enemy. The conduct of a PSO and the pursuit of wider cosmopolitan objectives requires a considerably different approach. As Wilkinson argues:

Military activities in PSOs are designed to conclude conflict by conciliation among the competing parties or ethnic groups, rather than a short-term and superficial termination of the conflict by force. A stable settlement, not military victory, is the measure of success. (Wilkinson, 2000: 68)

In attaining the goal of long term peace and the wider cosmopolitan goals of emancipation and human security, intervening militaries must adopt appropriate techniques. Despite the emergence of intra-state conflict as the dominant form of armed conflict in the post-World War Two era and the subsequent growth in interventions premised on humanitarian protection, national militaries still remain primarily equipped both technologically and strategically for operations against nation-state like entities. Technologically advanced, high-impact weaponry for all its potential efficacy in a conventional inter-state war with clearly defined protagonists and objectives, is not appropriate for interventions aimed at human protection. This is particularly the case in urban environments where it becomes very difficult to distinguish between civilian and combatant and there is a high likelihood of so-called ‘collateral damage.’ The enforcement of Cosmopolitan
Law and the multi-level reconstruction of conflict affected societies are to a large extent premised on close interaction with local populations. Evans-Kent is critical of traditional multilateral approaches to peacemaking which neglect interaction to address the needs of the local population, she contends that:

While the institutions of the international community cannot be labelled indifferent to the populations engaged in violent conflict, and whose resolutions may coincide with the wishes of some, little effort is generally made to establish or pursue the long term needs of the communities.
(Evans-Kent, 2002: 296)

The consent and goodwill of local civilian groups alongside the overall humanitarian ends is placed into jeopardy if excessive and inappropriate military techniques are used. One analogy that may be used is the destruction of an entire housing estate in order to apprehend a pair of fugitives hiding within it. (Woodhouse, 1999) The employment of high impact warfighting techniques has the distinct potential to compromise the humanitarian objectives of what is becoming an ever more common mission type for national military forces.

This tension between high-impact warfighting and more cosmopolitan-minded practice was reflected in the difference in approach between US and Australian contingents involved in the United Task Force (UNITAF) active in Somalia from 1992-1993. The US approach was characterised by a relatively ‘hands off’ approach to the peace operation, avoiding tasks like disarmament which were perceived as potentially entangling the US in a lengthy intervention. (Patman, 2001: 62-64) This was combined with a willingness to engage with warlords responsible for much of the insecurity in the areas under US control, allowing these actors a certain political legitimacy. (Patman, 2001: 62) This failure to attain a more comprehensively secure environment with greater weapons control, combined with the inherent danger of granting legitimacy to armed political actors and the inability of the US to adopt a force posture appropriate for an intra-state conflict environment, eventually culminated in the disastrous gun battle between US soldiers and the forces of Mohammed Aideed in Mogadishu, October 1993. As Patman argues:

Confronted with the challenge of the Somali civil war, the Americans found it very difficult to find a middle way between the application of massive firepower and doing nothing. (Patman, 2001: 68)

In contrast, Australian forces based in Baidoa adopted an innovative force posture better suited to the achievement of cosmopolitan and humanitarian ends. Australian forces asserted a firm military presence focussing on disarmament and the control of weapons as a basis for the development of a more secure and stable environment. In addition the Australian contingent
made considerable effort to forge links with the local civilian community, in particular with the traditional clan elders, assisting the empowerment and resurrection of the beleaguered Somali civil society. (Patman, 2001: 64-71) In comparative terms Patman contends that:

Viewed in terms of a continuum, the US pursued what might be called the ‘sheriff’s posse’ model of peace-enforcement. The US approach was short-term, reactive, high-tech, compartmentalised and maximum force orientated. At the other end of the spectrum, Australia exhibited a community-based style of peace enforcement that might be more appropriately described as peace enhancement. This was long-term, assertive, relatively low-tech, integrative and minimum-force orientated. (Patman, 2001: 71)

In this way the Australian contingent in Somalia exhibited in practice some of the characteristics necessary to make the shift in military ethos and practice away from a reactive, minimally-immersive posture, drawn mainly from the perceived state-centric primary role, to a more authentically cosmopolitan military practice centred on the protection of human security and the provision of assistance toward the long-term reconstruction of conflict-affected societies.

In theory at least, both the cosmopolitan military concept and the ‘Peace Support Operation’ model represent an alternative approach aimed at providing more appropriate, genuinely ‘humanitarian’ responses to intra-state conflict and more faithfully fulfilling the state’s cosmopolitan responsibilities to protect the security of the ‘other.’

Conversely however these understandings of military cosmopolitanism remain at present only a discursive tool, and in practice arguably an anomaly, rather than an ethos fully accepted and institutionalised within military culture and implemented consistently by Western policymakers. Elliot herself remains somewhat cautious of recent re-invention or re-imagination of certain militaries as ‘cosmopolitan,’ suggesting instead that more often military establishments remain resistant to paradigm shifts away from war-fighting and deeply committed to the perception of peace operations as ‘an accepted activity rather than a core concern.’ (Elliot, 2004: 27)

_A renaissance in warfighting._

The failure of militaries to fully commit themselves both ideationally and operationally to an ethos of cosmopolitanism, despite higher levels of involvement in recent humanitarian interventions, should represent a core issue of concern for cosmopolitan scholars. In spite of the emergent discourse on the cosmopolitan military concept and a willingness of political leaders and institutions to deploy humanitarian or human security related discourse in relation to recent
armed interventions, the PSO concept has rarely been fully implemented in practice. What has been observed instead, in both Afghanistan and Iraq is in fact a renaissance in traditional warfighting approaches with the discourse of armed humanitarianism applied irrespective of the manner in which the activities of the military are conducted at the operational level.

The growth in interest in the welfare and a feeling of responsibility to the non-national ‘other’ amongst Western publics is encouraging and possibly marks the emergence of new forms of political community based on cosmopolitan principles. What is problematic however, is the manner in which these feelings of solidarity with the ‘other’ are translated into practice and the degree to which the understandings of cosmopolitanism held by Western politicians and publics actually represent the beliefs and principles of the wider human community. This is particularly concerning when the translation of these cosmopolitan understandings into practice manifests itself in armed conflict.

The Cosmopolitan Military concept itself has a seemingly ‘narrower’ variant much more at ease with the recent renaissance in warfighting. Prins (2004) presents a minimally cosmopolitan account of the likely path of international military action for the purpose of human protection and is more at amenable to the recent renaissance in warfighting. With reference to the likely protagonists, Prins focuses on the idea of the ‘coalition of the willing,’ as recently evidenced in Iraq and Afghanistan, as the most likely vehicle for future cosmopolitan interventions. Prins contends that:

The model of the core coalition with case-specific augmentation, conducting psychologically led operations with a conscious deployment of so-called ‘effects-based operations’ is the likely shape for interventions undertaken as a response to the obligation to protect individuals in anarchic circumstances. (Prins, 2004: 44)

In this respect, and in spite of its considerable experience and heritage as an actor in peace operations, the United Nations is largely marginalised. Despite acknowledging the problems of state failure, HIV transmission and environmental degradation (Prins, 2004: 39-43) Prins fails to fully delineate what cosmopolitan goals are to be pursued, and makes only slight reference to the appropriate methods. The lack of focus on how armed humanitarian intervention should be conducted by a cosmopolitan military force arguably reflects an implicit assumption that future cosmopolitan interventions will remain in the traditional domain of military practice – that of warfighting. In addition to this Prins makes a close linkage between the future path of the cosmopolitan project and the current foreign policy direction of the United States. (Prins, 2004: 45) In reference to US cosmopolitanism Prins Argues:
This essential part of the American psyche and body politic found expression in ways which continue (fortunately) to be active into the present, ‘cosmopolitanism in one country,’ to coin a phrase. (Prins, 2004: 45)

From a theoretical perspective this ‘narrower’ variant of military cosmopolitanism somewhat uncritically equates US internationalist foreign policy objectives with authentically cosmopolitan values. A seemingly realpolitik approach to cosmopolitanism and humanitarian intervention emerges whereby cosmopolitan goals and the means by which they are achieved are contingent upon the foreign policy preferences of the most powerful actor(s), in the current global context the United States. Prins refers to US involvement in Kosovo, its initial recourse to the United Nations over Iraq and the overall desire, derived from the enlightenment ‘rights of man’ basis of US society, to spread ‘freedom’ and democracy globally, as examples of a ‘cosmopolitan’ turn in US foreign policy objectives. (Prins, 2004: 45) From this perspective the invasion of Afghanistan as response to international terrorism and the subsequent ‘liberation’ of the oppressed Afghan people was an armed cosmopolitan intervention. Similarly, the later invasion of Iraq ostensibly to remove the threat posed by the regime’s weapons of mass destruction and latterly to ‘liberate’ the Iraqi people, also falls within this ‘narrower’ conception of a cosmopolitan military action. What is concerning about this ‘narrower’ approach is the ease with which interventions by a wide variety of actors, with differing agendas and using a wide array of potential operational methods, may be categorised as ‘cosmopolitan,’ or more likely in popular political parlance as humanitarian interventions or military actions to protect human rights. The main governing criteria for a ‘narrower’ cosmopolitanism being capability, the willingness to act and the employment of an internationalist discourse in place of an explicitly national interest based rationale for action. Some interventions justified using this discourse in practice may in fact be at odds with the overall objectives of human security protection due to the interests at stake, variable levels of commitment and the operational methods employed. Whilst recourse to humanitarian or cosmopolitan discourse is made, these are arguably not necessarily the type of interventions of which many cosmopolitan scholars would either envisage or approve.

Aside from the interests at stake when deciding to intervene, the operational means employed when conducting recent interventions justified with cosmopolitan / humanitarian rhetoric, have often fallen into conflict with the ends apparently sought. Far from a shift away from the use of maximum force techniques toward a more proportionate and accountable use of force, recent conflicts in Afghanistan and Iraq have exhibited a continuation of warfighting practices.
The intervention in Afghanistan, despite the ostensible objectives of disrupting the Al Qaeda network and capturing those responsible for the September 11th 2001 terrorist attacks, was conducted very much like a retaliatory attack against a nation state. Due to the inherent problems of combating terrorist groups using conventional warfighting techniques, the state of Afghanistan and its de facto government, The Taliban, became the targets of US force widening the mission objectives, rhetorically at least, from the prevention of terrorism to the liberation of the Afghan people. Despite the change in discourse, no shift was apparent in the means employed by US forces. Whilst mobilising the discourse of human rights and emancipation, the use of airpower, cluster munitions, thermobaric weapons and so-called ‘Daisy Cutter’ bombs was widespread. Such weapons were used despite their distinct inefficiency in facilitating the capture and investigation of terrorist suspects, their considerable potential for civilian ‘collateral damage,’ and, particularly in the case of cluster munitions, the long-term risk to the civilian population. In addition to this the US-led coalition was unwilling, initially at least, to deploy ground troops reflecting a concern for force protection. Instead the ground force role was ‘sub-contracted’ to the Northern Alliance warlord faction. As a result, much of the ground level military activities were conducted by troops of a dubious reputation, lacking any effective training in Cosmopolitan Military techniques, a low-priority for human security, and with a range potentially divisive agendas.

The renaissance of warfighting continued in relation to the Iraq conflict. Once again, despite the adoption of a human rights rationale after the failure to uncover the regime’s weapons of mass destruction, the operation employed, and continues to employ, high impact warfighting techniques. Once again the means employed were unsuited to what was either an operation to enforce international law, the initial justification, or latterly, one directed at defending human rights. This has been particularly the case in the period after the initial episode of warfighting had passed and the state was fully occupied by the forces of the US-led coalition. In a post-conflict environment where relationships between civilian and intervener are better constructed through dialogue and consensus, rather than coercion, a PSO force posture, rather than warfighting would have been more appropriate. Despite this primarily US forces continue to use warfighting, rather than law enforcement mechanisms to combat so-called ‘insurgent’ forces. This was evident in the April 2004 highly destructive military assault on the city of Fallujah, conducted by US Marines, as a response to some level of insurgent activity within the area. The apparent perception of Iraq as an ongoing conflict environment where maximum force is still necessary to achieve a military victory is reflective of what Morgan defines as the US military’s need for
‘decisive outcomes.’ (Morgan, 2005) In respect to the overall US military strategic framework, within which current operations in Iraq are carried out, Morgan contends that:

Rather than addressing why force should be used, the doctrine addresses how force should be used. It is a strategic frame of mind that is both apolitical and absolute. Its absolutism reflects the all-or-nothing approach that has dominated past strategy, and it disassociates itself with politics because the only satisfactory outcome is military victory. (Morgan, 2005: 154)

In both cases despite the mobilisation of cosmopolitan human rights discourse, the failure to translate the human security focus onto into operational practice has resulted in a likely negative impact in relation to the long-term stability and security of both the Afghan and Iraqi societies. Whilst Peace Support techniques have been used to some extent in both theatres, by the NATO-led International Security Assistance Force (ISAF) in Afghanistan and by UK forces in the Southern sector of Iraq, retrogressive warfighting techniques still permeate the dominant understandings of military forces in both states.

The military approaches evident in both Afghanistan and Iraq are perhaps rather unsurprising given recent patterns of military thought. The disparity between the recent trend toward human rights discourse at the political level and military culture is evident more generally. Shaw makes reference to a new form of ‘risk-transfer militarism,’ practiced by Western militaries. With the focus on reducing the overall impact of conflict, thus making contemporary conflicts more amenable to just war criteria, and the concern force protection, recent conflicts have seen the risks in war transferred to the civilian population. (Shaw, 2002a) Shaw argues:

The risk of massacres is not only known and understood by Western military planners, it is a completely predictable consequence of the protection provided to aircrew. Reliance on high altitude bombing makes aircrew safe but it eventually leads to errors of targeting in which hundreds or thousands of civilians die in each campaign. (Shaw, 2002a: 349)

Thus in contemporary conflicts such as Kosovo, Afghanistan and Iraq, despite discourse suggesting a commitment to human security irrespective of nationality, there is still a dichotomy between ‘self’ and ‘other’ in respect to the degree of risk exposure. Following on similar lines Owens (2003) makes reference to the construction of the ‘accident’ in contemporary humanitarian war. Owens uses the analogy of Industrial Revolution era America and the change in perception of liability for injury by technology. In the same way that a new understanding of the ‘accident’ was developed, shifting full liability away from employers and thus conducive to greater industrial expansion, the notion of ‘accidental’ civilian death has been constructed in a manner amenable to US foreign policy objectives. (Owens, 2003: 605-607) Owens argues that:

Political and military leaders have sought to ensure that all non-combatants who die in the course of these so-called ‘humanitarian wars’ are portrayed as doing so ‘accidentally.’
Because specific non-combatant deaths were not wilfully intended as unique events, they should be classed as ‘accidents.’ The United States and its allies cannot be held responsible (or even criticised.) (Owens, 2003: 596)

Discursive tools, rather than military techniques are therefore changed to suit contemporary ‘humanitarian wars.’ Both the concept of ‘Risk Transfer Militarism’ and the construction of the ‘accident’ in recent conflicts, reflect the distinctly un-cosmopolitan, or at least very ‘narrow’ cosmopolitan, practice of recent military interventions. Rather than the breakdown of the ‘self’ / ‘other’ dichotomy through a concern for the protection of human security and human rights, irrespective of nationality, contemporary military practice appears to systematically place higher value on the lives of one’s own personnel. On the level of the individual soldier this need for a breakdown of ‘self’ and ‘other’ is problematic when consideration is given to the perceptions of many soldiers. In a study based on interviews with serving soldiers, Battistelli (1997) makes reference to two types of soldier most numerous in professional Western militaries. The first type, the paleomodern soldier serves in the military based on a sense of loyalty to the state and a feeling of responsibility to perform a role in its defence. Modern soldiers, the second type, serve primarily as a ‘job’ for personal economic gain. (Battistelli, 1997: 471) Modern soldiers, in particular are the most reluctant to perform peace operations roles as there due to a sense of unnecessary risk:

Professionals who are motivated by modern economic considerations and are deployed on peacekeeping operations, compare themselves with colleagues who do not face similar hardships and risks of the mission, but nonetheless receive economic compensation that is deemed to be not much different from their own. The unfavourable contrast is clear. (Battistelli, 1997: 481)

In this respect the membership of the large all-professional Western militaries is arguably comprised of soldiers who fail to break through the ‘self’ / ‘other’ dichotomy, either because they see the reason for their service as primarily for the defence of the ‘self,’ or because the defence of the ‘other’ poses too much risk for too little economic benefit. In both respects the degree to which these personnel may be classified as cosmopolitan soldiers, well suited to human security operations is contestable.
Cosmopolitan law enforcement

Despite the glaring operational and theoretical difficulties surrounding cosmopolitan militaries the belief that coercive force can successfully be used to enforce a growing body of ‘cosmopolitan law’ is strong within International Relations discourse and the policy circles of some European states.

In response to the ‘new wars’ identified by Kaldor and others, contemporary cosmopolitanism within International Relations has been translated into a set of discourses based on criminalisation, policing and law enforcement, what is referred to here as the ‘criminalisation of violence’. Central to this alternative narrative is Mary Kaldor’s notion of cosmopolitan law enforcement. Kaldor argues that there is a possible third option that falls between complete inaction and recourse to western style warfare, or ‘spectacle wars’. Importantly, this new approach ‘distinguishes humanitarian intervention from war.’ (Kaldor, 2003: 134) Other contemporary cosmopolitan (or broadly cosmopolitan) theorists working within the discipline of International Relations such as David Held, Martin Shaw, Daniele Archibugi, Ulrich Beck, Jurgen Habermas, Lorraine Elliot and Graham Cheeseman have contributed in some way to the development of this alternative approach. At its core is the Kantian belief that there exists a human community with shared rights and obligations. As such these discourses are underscored by the belief that reified notions of sovereignty and state prerogative should not impede attempts to alleviate suffering and protect ‘global’ or ‘cosmopolitan’ rights. Developing out of the frustration felt towards the interventions of the 1990s, which Kaldor argues suffered due to continuing misconceptions about the nature of the violence encountered, this new cosmopolitan approach to solving intrastate conflicts has military, economic and political dimensions. Those who do not wish to see further ‘spectacle wars’ in response to outbreaks of intrastate warfare or mass abuses of human rights argue instead for a new conception of intervention which sees military forces used to implement and defend cosmopolitan law. This cosmopolitan approach has at its conceptual heart a human security ethic that places individual human beings rather than states at the centre of our concerns. Summed up by Elliot and Cheeseman:
Cosmopolitan arguments that military force and forces can and should be used to ‘save strangers’ are grounded in the proposition that humankind is bound together as a community, as Enlightenment thinker Immanuel Kant avowed, a right violated anywhere is felt everywhere. Such a world engenders an ‘ethos of responsibility and solidarity’ This in turn is given political and moral expression through the democratic and humanitarian principles of international (or cosmopolitan) law. If these principles are to be sustained, cosmopolitan law must be defended and if necessary, enforced. (Elliot and Cheeseman, 2004: 3)

This approach is based on the assumptions, firstly, that international humanitarian law is the most appropriate mechanism with which to solve intrastate warfare and secondly that the international juridical regime founded at Nuremberg, encapsulated in the 1945 Universal Declaration of Human Rights and developed significantly since the end of the Cold War is an already existing cosmopolitan regime. The laws of war, war crimes, crimes against humanity and genocide, human rights legislation combined with ever increasing environmental law are what for Held constitute ‘cosmopolitan law’ the ‘law of peoples, as opposed to classic sovereignty, or the ‘law of states.’ It is this cosmopolitan law, ‘global law’ or ‘global humanitarian law’ as it is sometimes referred to that forms the foundation, and framework of cosmopolitan sovereignty. Cosmopolitan sovereignty places individuals, rather than states as the primary political agents. Held’s conception of cosmopolitan law sees international law reconnected with morality, a process that has been ongoing since 1945. This law based framework is to be institutionalised through the development of a global legal system of which the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and in particular the International Criminal Court (ICC) are heralded as significant foundations.

_Cosmopolitanism in context_

We would like to argue that those scholars who look towards an emerging cosmopolitan ethos for the basis of a global political community must include an analysis of how cosmopolitan goals are currently articulated in practice when related to the use of violence. Whilst those who argue that a cosmopolitan regime is already in existence look to the ICTY, ICTR or ICC, few, if any have turned their attention to the powerful cosmopolitan project currently influencing the domestic, and more significantly, foreign policy of the current administration in the White House.
It is critical that cosmopolitan scholars acknowledge the context in which their discourse will be received.

The post-September 11th world finds the cosmopolitanism of Kaldor and others situated within a global context that sees the ultra-conservatives of the Bush administration intervening militarily to promote a liberal-cosmopolitanism of their own. In the present global context those advocating a cosmopolitan law enforcement approach find themselves in the danger of at best echoing, or at worst bolstering the position of the ‘neo-interventionists. The neo-conservative project currently influencing the foreign and security policies of the White House seeks to create, seemingly by force if necessary, a world order that is favourable to US interests. Those interests however, are deemed beneficial to humanity as a whole. The security of the United States now rests on ‘the force of freedom’. The well-being of every American is reliant on the well-being of all, national security relies on ‘the success of liberty in other lands’. According to Robert Kagan, neo-Reganite and prominent member of the Project for the New American Century (PNAC), ‘Americans should understand that their support for American pre-eminence is as much a boost for international justice as any people is capable of giving.’ (Kagan & Kristol, 2000: 58) In the words of George W Bush, ‘America’s vital interests and our deepest beliefs are now one. From the day of our founding, we have proclaimed that every man and woman on this earth has rights, and dignity, and matchless value.’ (Bush, 2005) Neoconservatism is inherently a universalistic theory - or at least conception - of politics. At its heart is what Michael C Williams describes as a ‘forwardly looking, outwardly oriented form of American nationalism.’ (Williams, 2005: 317) The neoconservative conception of nationalism is itself worthy of note in any discussion about the nature of political community due to the fact that it separates the notion of nationalism from territory. In William Bennett’s words, the patriotism of the United States is a, ‘a patriotism of ideals, not of the soil’. This patriotism of ideals is in effect a form of cosmopolitan patriotism and stems from the very foundation of the United States. ‘Put simply’, Bennett explains, ‘the United States was the first nation ever to base its very sense of nation-hood on a set of universal principles derived from natural rights as enunciated in its Declaration of Independence.’ (Cited in Williams, 2005: 318) William Kristol and David Brooks also take up this theme stating:

Our nationalism is that of an exceptional nation founded on a universal principle, on what Lincoln called ‘an abstract truth, applicable to all men at all times.’ Our pride in settling the frontier, welcoming immigrants and advancing the cause of freedom around the world is related to our dedication to our principles. (Cited in Williams, 2005: 318)
These sentiments are apparently echoed within US public opinion, a poll carried out in 1999 saw 73 per cent polled agree, and 44 per cent strongly agree with the statement, ‘I regard myself a citizen of the world as well as a citizen of the United States.’ (Cited in Nye, 2002: 236) The adoption of a human-security rhetoric has seen neo-conservatives within the administration, traditionally so opposed to risking American lives to save strangers, accepting huge costs both in terms of casualties and occupation and reconstruction expenses in the name of humanity. (Falk, 2004: 47) These costs also seem to be accepted by the majority of the US public who appear to have overcome ‘Viet-malia’ syndrome somewhat. As Falk notes, ‘American people who reacted so negatively in 1993 when 18 Americans engaged in peacekeeping were killed in Somalia, have so far accepted the outcome in Iraq even though Americans are continuing to die in their role as occupiers on almost a daily basis.’ (Falk, 2004: 48) The difficulties still being experienced in Iraq do not seem to have dampened the enthusiasms of the neo-interventionists, with William Kristol, chairman of the Project for a New American Century calling in September 2004 for American troops to intervene in Darfur to halt the ‘genocide’ whilst the UN hesitated.

One of the major problems with the universalistic approach of the neoconservatives is hinted at in the mention of natural rights within Bennett’s quote and is further demonstrated by Robert Kagan’s comment that the, ‘principles of the Declaration of Independence are not merely the choices of a particular culture but are universal, enduring, ‘self-evident’ truths.’ This assumption of legitimacy is a criticism traditionally levelled at cosmopolitan theory and one that has been responded to particularly in the work of Andrew Linklater. But an uncritical universalistic outlook held by the world’s only remaining superpower is a cause for concern. All the more so because neoconservativism believes, in the words of Tim Lynch, that ‘might is the more reliable means of making right’:

Progress (defined in the National Security Strategy [2002] as he rule of law – limits on the absolute power of the state – free speech – freedom of worship – respect for women – religious and ethnic tolerance – and respect for private property) can only be achieved by the application of overwhelming – yet carefully chosen – force. (Lynch, 2004: 2)

It is easy to argue that humanitarian or cosmopolitan rhetoric has simply been used to disguise the power politics and economic ambitions of western states. This as Ulrich Beck and David Reiff have acknowledged is to overlook the complexity of the current political climate:

Those that argue that NATO and the USA have simply feigned roles as ‘world police’ in order to pursue fundamental US economic and geopolitical power interests in the power keg of the
Balkans and the Arab world not only do not understand the true situations, but also overlook how the politics of human rights (just like the application of the ‘free market economy’) has become a civic religion, a belief of the United State in itself...A new kind of post-national politics of military humanism is emerging. (Beck, 2005: 9)

As David Rieff highlights, whether intended or not, the apolitical claims of humanitarianism, what he refers to as ‘the secular religion of the international class’ coincide with the neo-liberal view that ideology is dead ‘except of course for the ideology of the market, which is declared to be non-ideological’ and the belief that the great political questions of our time have been answered. We all share a common view of how the world should be, all except of course for a few rogue elements, Saddam Hussein and Osama bin Laden being among them. (Rieff, 2004: 294.)

In his 2005 article War is Peace Ulrich Beck argued that, ‘the cultural, legal, moral borderlessness of responsibility favours the emergence of a cosmopolitan monopoly of morality, law and legitimate use of force in the West.’(Beck, 2005: 15) Indeed, the cosmopolitan or humanitarian warfare exhibited since the end of the Cold War has served to de-legitimise all forms of warfare except for those prosecuted by the West. This has been done via the rhetoric of western militarists and particularly through the narrative of the Revolution in Military Affairs (RMA). The RMA, and the apparent ability to use precision guided munitions in order to discriminate between legitimate military targets and civilians underpins the Just War doctrine, which itself underpins the neoconservative belief that might can enforce right. In addition to military discourse, the discourse of international law and of those cosmopolitans who view this law as a framework for a post-national political community is also being used (consciously or unconsciously) to de-legitimise all forms of warfare except for those of the West. The human rights regime creates hierarchy of states and the international juridical regime that accompanies it, a method of exclusion. The human rights regime polarises international relations between those within the regime, (who are also those states that predominately formulate the laws and dominate their interpretation), and those states considered to exist beyond the law’s borders. These rogue elements of international society are considered to have forfeited their sovereignty and are excluded from the prerogatives of absolute sovereignty enjoyed by the so-called law abiding states. In Beck’s terms, the new borderless responsibility ‘implies selectively stealing sovereignty from states.’(Beck, 2005: 15) Mary Kaldor hints at this redistribution of sovereignty, and with it the legitimate monopoly of violence with her belief that cosmopolitan law enforcement is primarily a job for Europe. (Kaldor, 2002: 148-149). Martin Shaw on the other
hand is explicit in his belief that a global state should framework place the legitimate monopoly of violence with members of the G8:

A global state framework that ties together the world’s state powers, so as to prevent major interstate war, increase economic flows and facilitate populations movements, has much to recommend it. Such a framework, at the beginning of the twenty-first century, can only be centred on the West, given its economic, military, political and indeed ideological – supremacy.

The cosmopolitanism guiding the policies of the White House and the cosmopolitan developments that have accompanied that growing acceptance in the west of armed humanitarian intervention have not in reality seen the demise or withering of state sovereignty, but rather its redistribution

The demise of legal pacifism

The danger of not acknowledging the political context in which cosmopolitan discourse is being received is demonstrated by the revival of Just War theory in determining the legitimacy of warfare. It is through an examination of the way in which cosmopolitan discourse interacts with the neo-conservative Just War revival that it becomes clear how those who claim to be promoting a legalistic approach to controlling contemporary warfare are in fact, through confusing analysis and consequentialist reasoning offering support to those who are systematically undermining it.

The War on Terror has never just been a counter-terrorist policy. From the start it was presented by the White House as a classic, ‘good war’ that adhered to Just War principles. In his analysis of the public language used to discursively construct the War on Terror, Richard Jackson recognises that the war has been presented as nothing less than a ‘virtuous’ campaign. (Jackson, 2005: 124-146) To do this the rhetoric used has, in Jackson’s opinion been, ‘moulded closely on what has become known as traditional just war theory’. The attacks of September 11th 2001 presented the Bush administration with their just cause. Labelling these instances of terrorism as an act of war, the War on Terror was presented as a legally acceptable response in self-defence.

1 Here these principles are as defined by Joseph McKenna in 1960: (1) the war must be declared by the duly constituted authority; (2) the seriousness of the injury inflicted on the enemy must be proportional to the damage suffered by the virtuous; (3) the injury to the aggressor must be real and immediate; (4) there must be reasonable chance of winning the war; (5) the use of war must be the last resort; (6) the participants must have the right intentions; (7) the means used must be moral. Joseph McKenna, ‘Ethics and War: A Catholic View’ American Political Science Review, September 1960, p. 647-658 cited in Donald A. Wells, ‘How Much Can ‘The Just War’ Justify?’ p. 821.
But more than this the War on Terror has been portrayed as a crusade for freedom, a war fought in defence of liberty, a quest for justice. The operation in Iraq extended this rhetoric further, democratic values would be transferred and the oppressed, liberated. The creation of the ‘Coalition of the Willing’ in rhetoric if not in reality, served to present the war as properly constituted, being backed by international opinion. Even in the face of torture allegations, the just conduct of the military has been maintained. Significantly, the War on Terror has been constructed as a war of last resort, no peaceful or diplomatic options were available. This combined with an unwavering belief in total victory over the ‘evil’ of terrorism and mixed with the Christianity of the Bush administration meant the War on Terror was not just a sound security policy, nor a just, or justifiable war, it was a divine calling – a ‘good war’ comparable to World War II, the ultimate good war.

This ‘just war’ rationale has also been adopted by the UN Secretary General Kofi Annan in his March 2005 report. Setting out the future direction of the institution, in the wake of the 2003 invasion of Iraq, Annan suggests a framework of justification for the use of force that to a great extent replicates that offered by ‘Coalition of the Willing’:

When considering whether to authorize or endorse the use of military force, the Council should come to a common view on how to weigh the seriousness of the threat; the proper purpose of the proposed military action; whether means short of the use of force might plausibly succeed in stopping the threat; whether the military option is proportional to the threat at hand; and whether there is a reasonable chance of success. (Annan, 2005: 33)

The principles set out by the Secretary General which should guide any recourse to force replicate almost exactly the principles of the just war doctrine. Annan hopes this framework will provide transparency to the Security Council’s deliberations over whether to sanction the use of force. It seems unlikely though that they will do anything to unlock stalemate when it occurs.

Why then has there been a revival of the Just War framework to legitimate recourse to armed force? A Just War revival is according to Richard Falk, a response to the floundering of a legalistic approach to constraining conflict. The RMA, the nature of modern conflict and the developing norm of humanitarian intervention in the post-Cold War era have all undermined the appropriateness and applicability of international law.
The Just War revival finds itself at the centre of debate about the appropriate justification for military conflict. Is a war justified because it is legal, or because it is considered legitimate? What would be the appropriate source of such legitimacy? The supposed inability of international law to respond to humanitarian crises was starkly demonstrated during the 1999 NATO intervention in Kosovo. NATO’s actions in Kosovo have split opinions decisively from those who support the intervention by arguing that with no territorial gain, no desire for regime change and no national interest other than restoring peace to Europe, NATO acted in the truest humanitarian fashion. At the other end of the spectrum are those who believe that in Kosovo NATO simply committed a criminal act. By acting without the prior authorisation of the UN Security Council, NATO’s actions were indeed, on paper, illegal. Yet the final judgement on the intervention as espoused by the Kosovo Report of 2002 was that although illegal, the action was legitimate. The apparent exceptional circumstance of a War on Terror, a war with no identifiable end, fought against a network of terrorists and ‘illegal combatants’ rather than an organised army has led many to further question the applicability of international law to the post-Cold War and in particular the post-September 11th world. This has served to widen further the legality/legitimacy gap that NATO’s operation in Kosovo opened up.

In the new era of the War on Terror Falk writes,

> [t]he relevance or obsolescence of international law has become a matter of intense controversy and relates to whether the just war framework provides a solution for those who seek to bring principles discussion to the debate. (Falk, 2004a)

International humanitarian law, argues Falk, has floundered in the face of this new type of conflict exhibited in the War on Terror, hence our analysis of the right to resort to armed force must move from one of ‘legality’ to one of ‘legitimacy’. ‘In this setting’, Falk argues, ‘the more flexible notion of permissible use of force associated with just war thinking seems attractive.’ And as Falk notes, it is indeed this just war framework that has been seized upon by the Bush administration, seeking legitimacy for their actions in both Afghanistan and Iraq within a ‘broader moral, cultural and humanistic framework’. (Falk, 2004a)
Cosmopolitanism: reinforcing the Just War?

A ‘just war’ doctrine sets out the circumstances in which it is right to perform immoral acts and contribute to evil consequences. (Wells, 1969: 820) As such it contradicts the deontology of Kantian cosmopolitanism. According to Wells, the just war concept represents an ‘anomalous instance in moral discourse, namely a glaring exception to an otherwise accepted prohibition of acts of human brutality.’ (Wells, 1969: 820) Yet those writing from a contemporary cosmopolitan perspective offer little in way of opposition to this way of thinking. Falk himself recognised the military intervention in Afghanistan as a just war, describing it as the first ‘shooting war’ involving the United States that he has ever supported, concluding in his analysis that:

The distinct challenge posed by Al-Qaeda, a dual approach needs to be used, combining a rationale based on just war thinking with the possibility of altering the parameters of defensive necessity under international law. (Falk, 2004a)

Martin Shaw’s characterisation of the terrorist attacks of September 2001 also reinforces a ‘just war’ framework. Within the space of a single article Shaw refers to the attacks on New York and Washington as an act of war, whose ‘indiscriminate slaughter’ could, in terms of literature and law, be accurately described as ‘genocidal massacre’ as well as an ‘act of aggression’. All of these characterisations fall within a warfighting paradigm and legitimate a military response under international law. Adopting the same moralising language as the Bush administration Shaw reminds us not to dismiss the United States’ moral and legal rights to make a military response to the ‘massacre.’ Although the US may have had the right to make war, this Shaw continues, does not make war right. The extent to which the war was not ‘right’ though, has less to do with its moral quality, but more to do with its instrumentality. Shaw writes:

President Bush was quick to call them [the terrorist attacks] an ‘act of war’: correct so far as it went, but manifestly an incomplete naming...Innocent travellers and workers were burnt alive, crushed, suffocated, or forced to jump to their deaths. It was an immoral and illegal act of war, illegitimate according to all the standards accepted by worldwide humanity and by its agreed political representatives. [emphasis in the original.]

(Shaw, 2002b)

The terrorist attacks were not only acts of war they were immoral, illegal, acts of war. This then begs the question, what would a moral, legal act of war carried out by al-Qaeda look like? Would the standards endorsed by worldwide humanity and in particular, by its agreed political representatives allow for such an act? If they would not, and it is likely that they would not, this means that legal, moral acts of war are the preserve of states, and powerful western states to boot.
Although espousing a Kantian ethic, in the wake of September 11 those writing from a contemporary cosmopolitan position seem to have abandoned deontological ethics and have instead adopted a consequentialist approach than echoes that of the neo-conservatives and their supporters. As such Martin Shaw has told the anti war movement that it is not enough to simply be opposed to the war in Iraq. Rather one should make arguments against the military operation, not because military action is in itself wrong, but that it will not adequately do the job for which it is intended. His arguments against the US led war are based on its instrumentality rather than on a desire to constrain the waging of war more generally. Likewise his arguments in favour a criminal justice approach are instrumental, it will better serve the purposes – but for whom and for what motive are questions he avoids. Tellingly Shaw chides the ‘international left’ for its ‘systematic denigration of the Yugoslav tribunal as a tool of western power’ by questioning the tribunal’s decision not to prosecute NATO for unlawful actions in Serbia. ‘In the context of the terrorist massacres’, argues Shaw, ‘this ‘left’ lines up squarely with the American right to block the only serious alternative to war as a response to 9/11’. (Shaw, 2002b) A failure to acknowledge the power relations at play during the creation of both the ICTY and the ICTR are a symptom of the uncritical support of international criminal justice that the cosmopolitans display. Hence Chitty’s response: 

As for the system of international justice Shaw recommends, so far it is noticeable that its chief victims have been those who have posed an obstacle to the USA, or at best those for whom it has no use. The chances that the members of the Russian, Turkish, Indonesian, Salvadorian, Chilean, Israeli and (most of all) American governments responsible for the massacres of the last fifty years will ever face trial before its courts are effectively zero. It is a system that has functioned overwhelmingly as another tool of US power. (Chitty, 2002) 

The realities of realpolitik should not condemn cosmopolitan law enforcement outright, but they must be at least acknowledged by its advocates. Shaw should not criticise those that critique the ICTY and international criminal justice in general but rather problematise the reality that an apparent cosmopolitan order has been built on anything but cosmopolitanism and may in fact simply be in the service of the powerful states. The celebrated indictment of Milosevic is heralded as a vital step towards a cosmopolitan regime. Here justice reached beyond the threshold of sovereign immunity - not even a head of state can deny his cosmopolitan duties. The ICTY’s indictment of Milosevic, a serving head of state was indeed unprecedented and it is no surprise that it is considered a great leap forward towards a new regime in international law. However, one must remember the circumstances under which Milosevic came to be indicted. The
Dayton Agreement required that Milosevic was not criminalised. But in 1999 when NATO forces intervened in Kosovo, justification, according to British lawyers, was to be found in stopping and punishing crimes against humanity. This time, NATO’s legitimacy required that Milosevic be indicted. (Robertson, 2002: 444) Those that hold the prosecution of Milosevic up as an example of a functioning cosmopolitan law fail to admit that the reason this head of state was indicted was to ensure the legitimacy and bolster the legality of NATO’s campaign, a campaign that was carried out as a classic ‘spectacle war’, the apparent antithesis of cosmopolitan law enforcement. Shaw’s analysis highlights the danger of the cosmopolitan project’s uncritical endorsement of the international juridical regime.

**Conclusion**

This paper aims to highlight the difficult relationship that has developed since the Bush administration’s War on Terror between the cosmopolitan beliefs of those who have long argued for legal and legitimate humanitarian intervention, and the cosmopolitanism being espoused by the neo-conservatives of the Bush administration and the Project for the New American Century. The post-September 11th world finds the cosmopolitanism of Kaldor and others situated within a global context that sees the ultra-conservatives of the Bush administration intervening militarily to promote a liberal-cosmopolitanism of their own. In the present global context those advocating a cosmopolitan law enforcement approach find themselves in the danger of at best echoing, or at worst bolstering the position of the ‘neo-interventionists. The cosmopolitan militaries concept aims to provide an alternative model that suggests more appropriate responses to humanitarian crises. Yet this paper demonstrates that this remains in large part a discursive tool. Instead, cosmopolitan rhetoric has accompanied and legitimised a renaissance in warfighting. This particular form of western warfighting, dominated by the notion of the RMA and force protection militarism, whilst justified by cosmopolitan language, in fact serves to entrench a dichotomy between ‘self’ and ‘other.’ The post-Cold War era has seen the return of the ‘good war’ and a move away from legal pacifism – the control of war through international law – to Just War theorizing. Although claiming to support a legalist approach to conflict resolution and prevention, cosmopolitan discourse within international relations is currently serving to reinforce the arguments of those who are systematically undermining it. This is particularly worrying given that present cosmopolitan developments have seen not the transformation of sovereignty, but rather its redistribution, and with it the legitimate monopoly of violence, in the West. A seemingly stronger cosmopolitan defence of the other has led to what Beck describes as
an ‘uncomfortable reality’, one that cosmopolitan scholars have so far failed to adequately acknowledge. Namely that, ‘the paradox that the successful institutionalisation of the cosmopolitan regime that serves the objective of securing the world conjures up the contrary: the legitimisation and legalisation of war.’ (Beck, 2005: 5)

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