

Professor Bill Chin
Some Scholarly Writing Guidelines

A. Do the following:

1. Talk with me initially about your writing proposal.
2. Talk with the Registrar's Office about your Independent Research. Give me the paperwork to sign.
3. Send me the following information in an email:
 - a. What topic? (See below)
 - b. For how many credits?
 - c. An "A" or "B" paper? ("A" paper is 38-40 pages; "B" paper is 18-20 pages; both require a rewrite)
 - d. If an "A" paper, have you already written the "B" paper?
 - e. Your own due-date schedule for the following:
 - I. Thesis Summary and Substantive Outline
 - ii. First paper
 - iii. Second Final paper

B.Thesis Summary (one page; check off the items below; complete the questions; attach to the paper you turn in)

[] 1. Choose a specific topic that you *care* about. Even at this early stage, try to identify a topic that you care about. Complete the following sentence: “The specific topic I care most about is _____.”

[] 2. Consider what *specific* topic you will write about. Turn it into a **narrow** thesis that makes an assertion. Focus on a “narrow but deep” thesis. “Deep” means you will fully develop all the issues related to your thesis and do so in a comprehensive manner.

[] 3. Understand the broader context that your narrow thesis fits under. That is, realize what “knowledge” part you are adding to the entire “knowledge” structure. My thesis fits under the larger issue of _____.

[] 4. Explain **what approach** you will use to address your thesis. (See the “Big-Question formats” section below.)

- a. identify practical problem – propose practical solution
- b. ask a question – provide empirical answer
- c. identify mistaken interpretation of law or doctrine – propose correct interpretation of law or doctrine
- d. other approach you are using?

[] 5. Go beyond merely *describing* in your paper (e.g., merely describing the language of a hate-crime statute). Instead, go further to *explaining, justifying, prescribing, or solving* in your paper (e.g., explaining why the hate-crime statute is deficient and prescribing a revised statute that will solve the problem).

[] 6. Do a “literature survey.” That is, research what others have written regarding your topic. For example, research law review articles to see what other authors have said about your topic. You do this for various reasons including to determine

- a. if another author already addressed the same issue,
- b. if you are arguing against a position taken by an author,
- c. if you are supporting the position taken by an author,
- d. if you are making a novel argument,

- e. if you are making a slight modification to another author's thesis,
- f. if your topic is considered important, current, or relevant, or
- g. if your topic has generated some controversy or none at all.

[] 7. Research all relevant sources to support your points. Many sources are possible including

- a. law review articles,
- b. articles from non-law journals (e.g., medical journals),
- c. primary legal sources such as constitutions, statutes, court cases, agency regulations,
- d. secondary law sources including the ALR, CJS, and Am. Jur. volumes,
- e. newspaper articles,
- f. books,
- g. government sources such as White House press releases, State Department reports, and
- h. legislative history material including committee reports, debates, and presidential signing statements.

C. Substantive Outline (i.e., an expanded Table of Contents)

[] 1. Include the title that states your central point (thesis) for the paper.

[] 2. Include a brief, one-paragraph “synopsis.” Your synopsis fits between the *title* and the *outline*. Your synopsis concisely tells the reader what your paper is “all about.” It clearly tells the reader what are your critical points. See the example below.

James W. Buchanan III, 22 REALPPTJ 561

Real Property, Probate and Trust Journal

VALUATION AND TAXATION OF TRANSFERS OF OIL AND GAS INTERESTS TO CHARITIES, Fall 1987 (Westlaw)

* * *

EDITOR'S SYNOPSIS: This article explains the nature of oil and gas interests, describes techniques involved in their valuation, and offers advice for planning charitable contributions of such interests. With perseverance alone, attorneys may become familiar with the statutory and regulatory intricacies peculiar to federal taxation of oil and gas interests, but determining the value of an oil or gas interest requires knowledge obtainable from neither the Internal Revenue Code and Treasury Regulations nor from secondary tax sources in general. Little in the existing tax literature addresses the essential elements of oil and gas appraisals as conducted by petroleum engineers, analyzes their vulnerability to challenge by the Internal Revenue Service, or provides working definitions of petroleum engineering terminology and principles. While tax lawyers are accustomed to dealing with appraisals of personal and real property for tax purposes, a petroleum engineer's appraisal of a mineral interest may contain elements unfamiliar to even the most experienced tax practitioner.

* * *

[] 3. Identify what your writing goals are by referring to the “big-question” formats below.

Identify which best fits the format you are thinking of for your paper. _____

Or do you have your own “big-question” format? If so, what is it? _____

Your format should correspond with your main points in your Table of Contents.

4. Big-Question formats:

<p>Ex. #1: WHAT is the problem? WHY is this problem important? HOW did this problem develop? WHAT are the solutions?</p>	<p>Ex. #2: WHAT are the opposing laws/policies? HOW did this situation develop? WHICH law/policy should prevail and WHY?</p>	<p>Ex. #3: WHAT information/data /research is lacking? WHY is this information/data /research needed? WHAT does your information/data /research reveal?</p>	<p>Ex. #4: WHAT is the government (or other actor) doing? WHAT are the consequences (good or bad)? WHY should the government (or other actor) stop/continue what it is doing?</p>	<p>Ex. #5: WHAT is the author (of another paper) asserting? WHAT is your response (to oppose, modify, add to)? WHY is your response correct, needed, or important?</p>
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[] 5. Using full sentences in your **headings, subheadings, and sub-subheadings** to identify your **main points (and subpoints and sub-subpoints)**.

[] 6. Explain your logical organization. At the end of each heading, subheading, and sub-subheading, insert a footnote explaining why that heading (or subheading or sub-subheading) is placed at that particular location in that particular order.

[] 7. Under each heading (or subheading or sub-subheading), include a brief paragraph containing **concise analysis** that supports the point identified in the heading (or subheading or sub-subheading).

D. First Well-Written Paper:

1. Do a “literature survey.” Research relevant sources.
2. Organize your main points and subpoints (and even sub-subpoints).
3. Make all points relate back to your thesis.
4. Research thoroughly. Provide support for your assertions. Identify the sources you used. Provide footnotes (not endnotes). A rough guide is 4-8 footnotes per page.
5. State the main point at the beginning of each section, whether that “section” is the beginning of the heading, subheading, sub-subheading, or paragraph.
6. Revise, edit, and proofread your own work.
7. Review your citations.
8. See the handouts and samples below on how to organize and write your paper.
9. Turn in a well-researched, organized, professional paper.

E. Final Paper:

1. Review all aspects of your paper, even the parts I did not comment on.
2. Address the parts I did comment on.
3. Feel free to revise extensively if you feel this will improve your paper. Develop the ability to “re-view” your entire paper for the purpose of making it clear to the reader.
4. Do additional research if needed to support points in the paper that needs support.
5. Attach a copy of the prior paper that contains my comments.
6. Highlight (using a yellow highlighter or a word-processing highlighting feature) the parts you revised.

F. Some helpful texts:

1. *Academic Legal Writing* by Eugene Volokh
2. *Scholarly Writing for Law Students* by Fajans and Falk
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Writing Guidelines (for the “First” and “Final” papers)

Include the following:

1. Informative title. This should relate directly to your thesis.

2. Your name (with a footnote about you the author).

3. Brief, one-paragraph “synopsis.”

4. Table of Contents. Provide informative headings, subheadings, and even sub-subheadings as needed. All headings should tell the reader what that section is about. Each section should relate directly to your thesis. The reader should say, “Yes, the paper is logically organized and the points relate directly to the synopsis thesis.”

a. Avoid having a heading that merely says “Overview,” “Background,” “History,” or “Cases.” Provide a full heading asserting a position that relates to your thesis.

5. Introduction. The Introduction should attract the reader’s attention. It should be an entry into your paper. It should explain your key points. It should make your readers say, “Yes, this is an important topic and these are valid points. I want to read more.”

6. Other sections. Each section should be focused on the key point identified in the heading (or subheading or sub-subheading). Each section should directly relate to the thesis in your synopsis.

a. State the main point (for every section) in the *first sentence or first few sentences of that section.* The analysis that follows should support that main point.

b. State the main point (for every paragraph) in the *first sentence or first few sentences of that paragraph.* The analysis that follows should support that main point.

c. Avoid having a section such as a “Background” section that merely lists past events detached from your thesis. Instead, make every section directly relate to your thesis. If any part of your paper does not relate directly to your thesis, then exclude it.

7. Conclusion. The Conclusion is not merely a repeat of the Introduction. It is not merely a listing of your main points. The Conclusion should reemphasize your main points in a way that leaves your reader with a favorable enduring impression of your thesis. It should make the reader say, “Yes, the paper’s analysis is well-reasoned and does inevitably lead to this conclusion that accentuates the synopsis thesis in a memorable way.”

9. Footnotes (not endnotes). Use either the ALWD or Bluebook citation format. Use footnotes to cite your sources. Avoid placing substantive text in your footnotes.

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Scholarly Paper Sample Format

*Note: For your paper, add more headings and subheadings (and sub-subheadings) if needed.

[Title]

By [your name]_____

Provide a brief but informative one-paragraph **synopsis**.

[Provide a **Table of Contents**]

I. Introduction [provide a complete Introduction] . . .

. . .

II. [Thesis heading: use a complete sentence to make a *concise assertion* (i.e., to state the main point) for each heading and subheading.]

A. [Thesis heading]

*Provide a mini-analysis for each subheading (and sub-subheading) section.

*State the main point of each paragraph in the first sentence of the paragraph.

Paragraph #1 [state thesis in the first sentence] . . .

. . .

Paragraph #2 [state thesis in the first sentence] . . .

. . .

B. [Thesis heading]

. . . mini-analysis . . .

C. [Thesis heading]

. . . mini-analysis . . .

III. [Thesis heading]

A. [Thesis heading]

B. [Thesis heading]

C. [Thesis heading]

1. [Thesis heading]

Paragraph #1 [state thesis in the first sentence] . . .

...

Paragraph #2 [state thesis in the first sentence] . . .

...

2. [Thesis heading]

IV. [Thesis heading]

A. [Thesis heading]

B. [Thesis heading]

C. [Thesis heading]

V. Conclusion

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Another Scholarly Paper Format (that is essentially the same as the format above)

[Title]

By _____

[Synopsis]

[Table of contents]

I. Introduction.

II. [Main point #1 that supports the title topic]

[Brief introductory/preview/roadmap section]

A. [Subpoint #1 that supports main point #1]

[topic sentence for first paragraph (use approx. 4-6 sentences per paragraph; or approx. 3 paragraphs per page); the sentences that follow support the topic sentence; the sentences should be logically connected]

[topic sentence for second paragraph]

[topic sentence for third paragraph]

B. [Subpoint #2 that supports main point #1, and logically follows subpoint #1]

III. [Main point #2 that supports the title topic, and logically follows main point #1]

[Brief introductory/preview/roadmap section]

A. [Subpoint #1 that supports main point #2]

1. Sub-subpoint #1 that supports subpoint #1]

2. Sub-subpoint #2 that supports subpoint #1, and logically follows sub-subpoint #1]

B. [Subpoint #2 that supports main point #2, and logically follows subpoint #1]

IV. [Main point #3 that supports the title topic, and logically follows main point #2]

[Brief introductory/preview/roadmap section]

A. [Subpoint #1 that supports main point #3]

B. [Subpoint #2 that supports main point #3, and logically follows subpoint #1]

V. Conclusion.

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Goodman Scholarly Paper Example

[Excerpts from the Goodman article using Westlaw. See my bracketed notes below.]

American Journal of International Law
January, 2006

***107 HUMANITARIAN INTERVENTION AND PRETEXTS FOR WAR**
[*Provide an informative heading that identifies your specific focus.]

Ryan Goodman [FN1]

The legal status of humanitarian intervention poses a profound challenge to the future of global order. [FN1] The central question is easy to formulate but notoriously difficult to answer: Should international law permit states to intervene militarily to stop a genocide or comparable atrocity without Security Council authorization? That question has acquired even greater significance in the wake of military interventions in Kosovo and Iraq, and nonintervention in the Sudan. Concerted deliberation on these issues, however, has reached an impasse. A key obstacle to legalizing unilateral humanitarian intervention (UHI) [FN2] is the overriding concern that states would use the pretext of humanitarian intervention to wage wars for ulterior motives. **[*Provide a beginning section that captures the interest of the reader. Goodman does this by highlighting the "global" importance of his article.]** In this article, I argue that it is just as likely, or even more likely, that the impact on states would be the opposite. Drawing on recent empirical studies, I contend that legalizing UHI should in important respects discourage wars with ulterior motives, and I discuss changes to international legal institutions that would amplify that potential effect. **[*Clearly state your thesis.]**

The concern that states would exploit a humanitarian exception to justify military aggression has long dominated academic and governmental debates. This concern pits the virtues of humanitarian rescue against the horror of having expanded opportunities for aggressive war. Dating back to Grotius, proponents of legalizing humanitarian intervention have struggled with the objection that their proposals would be abused as a pretext for war. [FN3] The proponents *108 were most influential in the late nineteenth century [FN4]-- admittedly a period in which international law permitted states to use force on many and varied grounds (and imperialism reigned). In the contemporary era, however, the proponents have essentially lost the debate. The terms of discussion have shifted at various points, [FN5] and NATO's intervention in Kosovo has, in particular, spurred one of the most nuanced discussions about the propriety of UHI and the ability to regulate it in the post--Cold War period. [FN6] Nevertheless, the consensus of opinion among governments and jurists favors requiring Security Council approval for humanitarian intervention. [FN7] And the pretext objection has been a significant factor in shaping that perspective; over the past few decades, it has figured importantly in the analyses of leading public international law scholars-- including Richard Bilder, [FN8] Ian Brownlie, [FN9] Thomas Franck, [FN10] Louis Henkin, [FN11] *109 Oscar Schachter, [FN12] Bruno Simma, [FN13] and Jane Stromseth [FN14]--who have argued against legalizing UHI. [FN15] For the same reason, many governments have opposed legalizing UHI, [FN16] and even in the case of governments that have engaged in humanitarian intervention without Security Council approval, there has been a reluctance to justify such actions by reference to a right to engage in UHI. [FN17]

The overriding concern about pretext wars turns on assumptions about state opportunism and the power of both law and perceived legitimacy in regulating state behavior. To address this problem

thus requires understanding empirical patterns of interstate hostilities and the influence that international institutions might exert on state conduct. Fortunately, an abundance of social science research addresses many of these subjects. Of special interest for this article are theoretical and empirical insights into the relationship between international and domestic *110 political process. Indeed, an important development in political science research recognizes that international relations and domestic politics are interrelated and that those connections are central to explaining the causes of war. [FN18] Whether a permissive international legal environment for humanitarian justifications would spur undesirable uses of force should accordingly be analyzed with these institutional dynamics in mind.

This article analyzes the determinants of war largely using available quantitative research and other political science studies. From this methodological vantage point, the gruesome nature of war may seem to recede into the background. Its presence is always felt, however. Since the patterns of interstate hostilities allow for such systematic analysis, it is crucial to examine closely whether laws designed to regulate the use of force are accordingly more or less likely to promote violence between states.

In part I, I describe the law on the use of force and outline the theoretical model that serves as the basis for the pretext argument. In part II, I contend that academic discussions about the pretext objection do not adequately consider the sociological consequences of being required to justify starting a war. In particular, I contend that encouraging aggressive states to justify using force as an exercise of humanitarian intervention can facilitate conditions for peace between those states and their prospective targets. This result is, of course, paradoxical, but it is grounded in empirical studies of unintended constraints on state action. As the discussion in part II demonstrates, leaders can become caught in their own public justifications for a military campaign. Consequently, framing the resort to force as a pursuit of humanitarian objectives, or adding humanitarian issues to an ongoing military effort, can reshape domestic political arrangements and the character of interstate relations that lead to war. In its most provocative form, my argument is that--compared to the existing baseline of interstate disputes that might escalate into war between such aggressor and defending states--the net effect on war would be desirable. That said, I do not purport to offer a comprehensive defense of UHI, and I do not suggest that these effects provide an affirmative justification to legalize UHI. I suggest only that they discredit the pretext objection. I also focus on just this one objection and address other concerns only insofar as they relate to the pretext issue. The essential point is that the very conditions that commentators suggest would unleash pretext wars by aggressive states may, in general and on average, temper the bellicose behavior of those states. In part III, I consider potential objections and refinements to the preceding analysis. **[*Explain what the parts of your paper will discuss.]**

The claims presented in this article include both a strong and a modest position. The strong position holds that legalizing UHI should, on balance, discourage aggressive wars by states that use the pretext of humanitarianism. If this position is correct, concerns about pretext wars should be retired. The modest position, which is more easily defended, is also highly important. It holds that some aggressive wars that would be fought in the current legal regime would not be fought

in a regime that permits UHI. On this view, it is dubious for the pretext concern to remain an obstacle to legalizing UHI, especially without knowing whether the prevalence of aggressive wars would likely be higher or lower than the status quo. Common to both positions is the insight that legalizing UHI holds the prospect of restraining some aggressive wars. Once *111 the dynamics that produce those restraints are understood, institutional schemes can be designed to strengthen and support them. **[*Try to provide a "framework of analysis" for the reader. Goodman provides a "strong and modest position" framework.]**

At bottom, a leading prudential objection to legalizing UHI rests on questionable assumptions. Those assumptions concern the effects of legal change on state behavior. Given the potential advantages of authorizing states to stop genocides and similar atrocities, misconceptions of countervailing effects of proposed legal changes must be corrected, and efforts to mitigate such effects should be closely considered.

I. THE MODEL OF PRETEXT WARS [*Provide headings, subheadings, and more as needed. Goodman does this throughout the paper. But note that I added heading designators such as "A." and "B." below. Add such heading designators to your paper.]

In this part, I first outline the contemporary international law on UHI. This analysis is relatively synoptic, as the issue is amply covered elsewhere. [FN19] Second, I analyze the pretext objection to legalizing UHI. This discussion is necessarily more detailed, because an exposition of the components of the objection has not been presented before.

[A.] The Law Against Unilateral Humanitarian Intervention

Since World War II, international law has prohibited states from threatening or using force except in self-defense or pursuant to Security Council authorization. Although some scholars have argued otherwise, [FN20] it is difficult to escape the conclusion that international law forbids the unilateral use of force to rescue victims of a humanitarian catastrophe. As a matter of treaty law, the UN Charter does not exempt UHI from the prohibition on the use of force, [FN21] and prominent General Assembly resolutions clearly support this interpretation. [FN22] As a matter of customary international law, the International Court of Justice in *Nicaragua v. United States* concluded that custom does not permit UHI. [FN23] And according to leading international law treatises, despite divergent state practices in the 1990s, the legal prohibition persists under both treaty and custom. [FN24]

*112 To be sure, recent developments indicate that the legal regime may be subject to change in the coming years. Subsequent to ECOWAS interventions in Liberia and Sierra Leone and NATO's intervention in Kosovo, many commentators agree that some form of exception to the prohibition may be gaining acceptance. [FN25] Nevertheless, in the past five years, at least 133 states have issued individual or joint statements opposing legalization. [FN26] Additionally, despite the prospect of wide-ranging UN reform, both the 2004 report by the UN High-Level Panel on Threats, Challenges and Changes [FN27] and the 2005 report of the secretary-general on UN reform [FN28] suggest maintaining the Security Council's legal monopoly over the use of force for humanitarian purposes. At bottom, the legal prohibition on UHI remains largely in place, and powerful international actors are not inclined to support a fundamental revision of it. [FN29]

For the purpose of our discussion, it is important to understand (or recall) the scope of the legal prohibition. The prohibition applies to all uses of force--the full spectrum of interstate violence. The prohibition regulates two practices: the threat to use force and the actual use of force. The formal rule against UHI categorically bans all these measures. Yet as the analysis in part II demonstrates, we might consider interactions between these various measures, including: whether the use of force short of war for humanitarian purposes may reduce the prevalence of wars, and whether the threat to wage war for humanitarian purposes may reduce the prevalence of states engaging in war.

The remainder of this part explicates the pretext objection to UHI. For the purpose of the analysis, it is important simply to recognize that modern international law precludes UHI. The question is: should it?

[B.] The Pretext Objection to Legalization

One might well support a state's use of force to halt a genocide in a specific instance, yet be concerned about the consequences of openly endorsing a principle preauthorizing humanitarian intervention as a matter of law. [FN30] A key concern is how to contain the practical implications *113 of legal authority. As noted earlier, the concern that states would initiate wars by using humanitarianism as a pretext constitutes perhaps "the most compelling" [FN31] and certainly the "most common" [FN32] objection to legalization. [FN33]

In order to sharpen the argument, it is worth considering that similar prudential concerns animated the framers of the UN Charter. States designed the use of force regime partly in response to the perceived lessons of World War II. One of the haunting memories was Hitler's use of humanitarian justifications for military expansion. It is well known that Hitler invoked the "right of self-determination" of German nationals as a pretext for his incursions into Austria and Czechoslovakia. [FN34] Perhaps less well known is the striking resemblance between Hitler's rhetoric and contemporary humanitarian initiatives. In a letter to Chamberlain, Hitler justified his military objectives in the Sudetenland on the grounds that "Germans as well as the other various nationalities in Czechoslovakia have been maltreated in the unworthiest manner, tortured, ... [and denied] the right of nations to self-determination," that "[i]n a few weeks the number of refugees who have been driven out has risen to over 120,000," that "the security of more than 3,000,000 human beings" was in jeopardy, and that the German government was "determined by one means or another to terminate these attempts ... to deny by dilatory methods the legal claims of oppressed peoples." [FN35] Hitler's rhetorical efforts reveal--perhaps in the starkest terms possible--what is at stake with regard to UHI. Such concerns, however, help only to focus, not to answer, the central empirical inquiry. Whether international legal norms that are consistent with such diplomatic representations would (or did) increase the likelihood of military invasion is a fundamentally different question. Whether a permissive legal regime would increase or decrease the aggregate number of aggressive wars is also part of that empirical quandary. [FN36]

It is helpful and important to identify the structure and empirical assumptions of the pretext argument--the case against legalizing UHI. The argument relies on particular conceptions of the relationship between state conduct and international legal norms. It assumes that international law affects how states--particularly duplicitous, aggressive states--orient themselves to the

international order. More specifically, the argument proceeds from the premise that legalizing UHI will affect, even if only on the margins, the use of force by such states. Otherwise, the argument is a nonstarter. Though scholars have advanced slightly different versions of the *114 pretext argument, their analyses generally contain similar elements, which constitute what I call the "**model of pretext wars**":

1. Static condition: The leadership of a revisionist state (state R) [FN37] is motivated by self-regarding and aggressive purposes to wage war against a defending state (state D)

2. Dynamic interactions: Expanding the international legal exception increases the likelihood that state R will wage war against state D

Element A. State R undertakes efforts to justify escalating hostilities in terms of purposes that conform to the new legal exception

Element B. The effort to justify escalating hostilities is undertaken in order to convince actors or institutions to relax pressure that they would otherwise apply were state R to attack state D

Element C. The actual or expected reduction of pressure reduces the costs of state R to wage war against state D

[*Your paper should "organize" the data that you find. Goodman does this through his "model of pretext wars" highlighted above.]

Admittedly, there is some evidence supporting aspects of the pretext model. At a general level, empirical studies suggest that international legal institutions can affect patterns of interstate hostilities. [FN38] More specifically, nontrivial evidence supports particular components of the model. With respect to the first element, states generally do attempt to justify their use of force within the parameters set by international law. Christine Gray finds that

[i]n practice, states making their claims to self-defence try to put forward arguments that will avoid doctrinal controversy

and appeal to the widest possible range of states. Especially since the Nicaragua case, [FN39] states have taken care to

invoke Article 51 to justify their use of force. They do so even when this seems entirely implausible and to involve the

stretching of Article 51 beyond all measure. [FN40]

In *Recourse to Force*, Thomas Franck details both the public justifications advanced by revisionist states and the supporting or opposing arguments made by other governments. [FN41]

*115 Other studies support aspects of the first and second elements: states undertake efforts to justify the resort to force in accordance with international legal principles, and these efforts are intended to satisfy particular audiences. In a leading analysis of the origins of war, Richard Lebow identifies a class of international crises in which leaders use pretextual justifications for

initiating war. [FN42] He explains that, across numerous historical cases, leaders "employed strikingly similar means," if not a "formula," [FN43] in articulating justifications for war. One of the principal step[s] in [this] formula for justifying hostility consists of legitimizing one's demands in terms of generally accepted international principles. By claiming to act in defense of a recognized interest or right, leaders may succeed in masking aggression or at least in maintaining the fiction of innocence. This may be very important to third parties or domestic public opinion. [FN44]

Other scholars have made similar observations about the tendency of states to employ international legal justifications to persuade domestic and international audiences. [FN45]

In the balance of this article, I analyze the pretext model and some broader issues that it raises. I do not contest all of the premises of the model. Instead, I offer an affirmative theory that shares some of the same empirical foundations. But my argument also diverges from the pretext model in significant respects. **First**, exponents of the pretext model fail to articulate a baseline of interstate hostilities for measuring the effect of legalizing UHI. It must be remembered in this context that the level of militarized conflicts is already high; one vital question is whether legalizing UHI might substantially discourage some of those conflicts from erupting into war. **[*Use "signpost" terms such as "First," "Second," and others to organize your points for the reader. Goodman does this as seen in his use of "signpost" terms that I highlighted.]**

Second, the pretext model does not adequately consider relationships between international and domestic political process. Analyzing structural relationships between these two domains should help in determining the consequences of legalizing UHI. Indeed, the model seemingly accepts what some scholars have called "the felt need for justification" [FN46]--the desire of leaders to show that their actions conform to international legal norms. Such justificatory appeals, however, have ramifications on the domestic political sphere that are not envisaged by the model. In the discussion below, I consider such ramifications. [FN47] I also consider how affected domestic political processes can, in turn, influence the escalation of hostilities between states.

*116 **Third**, and most fundamentally, the pretext model disregards the sociological effects of the process of justifying the resort to force. The model assumes that leaders' interests and beliefs remain static. The leaders of state R begin and end with the design to wage an aggressive war against state D. They lack only the opportunity or permissive legal environment to do so. In the following part, I discuss domestic sociopolitical processes that confound this supposedly straight-line, static set of preferences. Indeed, justificatory practices not only build domestic political support, but also change collective beliefs and preferences with respect to the conflict. Those changed domestic conditions have important implications for constraining leaders' actions and, more specifically, determining whether a dispute will escalate into war. **[*When making several points, try to prioritize them for the reader. For example, Goodman does this by saying "Third, and most fundamentally" above.]**

[Also, make "specific" points in your paper. Goodman does this by focusing on the "pretext" model and making at least three specific points about the "pretext" model.]

...

II. FRAMING HUMANITARIAN INTERVENTION [*All parts of your paper should directly relate back to your thesis, back to your main point in the heading and Introduction. Goodman does this by saying at the beginning that the focus is on "humanitarian intervention," and now here still focusing on "humanitarian intervention."]

Wars result from interactions at the international level--for example, exchanges between adversarial states--coupled with conducive domestic political conditions. Identifying important aspects of these relationships can help to predict the effects of making specific justifications for war more acceptable. In this part, I discuss significant features of the institution of war, including the "steps to war" [FN48] (that is, those practices adopted by states that increase the likelihood of war); sources of conflict (what states fight over); and the politics of justification (the political mobilization of support for escalating hostilities).

...

III. ADDITIONAL CONSIDERATIONS AND COMPLICATIONS

Part I presented the conceptual model of pretext wars. Part II evaluated the plausibility of the model by analyzing the institutional processes that lead states to war. In this part, I consider potential criticisms and refinements of the preceding analysis.

...

[A.] Inducing Humanitarian Justifications

One issue raised above is that humanitarian justifications might not appear early or emphatically enough in a dispute to change the course of hostilities. As discussed previously, this concern *137 is, if anything, a reason to reject the pretext objection to legalizing UHI. [FN172]

Nevertheless, the empirical evidence reveals potential pacifying effects from inducing aggressive states to assert a humanitarian justification in the course of a dispute. That evidence might encourage us to contemplate additional ways to mobilize--early and often--the sociological forces that produce such results.

The most pertinent mechanisms identified in part II involve institutional dynamics within the domestic political process. Beyond the important step of legalizing UHI, the international legal system could attempt to enhance those effects even further. In terms of procedural rules, a robust notification system (similar to Article 51 of the UN Charter) could amplify the salience of officially promulgated justifications by requiring states to report measures taken in exercise of the right to humanitarian intervention. Within a reporting process, it would be useful to dedicate resources to focus especially on lower-level uses of force and threats to use force (that is, at the MID stage). As is apparent from the analysis presented in part II, this stage in the road to war is much more significant than typically assumed, and how states frame the issues in dispute at the earlier stages may strongly constrain subsequent developments.

The forum for reporting should emphasize features such as publicity, accessibility, and transparency. A reporting process could yield additional benefits by specifically encouraging or reinforcing the participation of members of the revisionist state's national bureaucracy in the process of justification. Reporting procedures could also attempt to promote links with specific

national actors or agencies in order to encourage the participation of members of particular epistemic communities (such as human rights and humanitarian experts). The important point is to strengthen blowback effects-- to build and entrench humanitarian justifications--by increasing the salience of public representations and fostering bureaucratic politics.

...

CONCLUSION [*Your "Conclusion" should concisely re-emphasize your critical points in a compelling fashion rather than mechanically and dryly summarizing every point.]

The overarching purposes of this article have been, first, to identify core assumptions of the pretext objection to legalizing UHI, and second, to subject those assumptions to critical evaluation. One of the principal obstacles to an internationally recognized right of humanitarian intervention is the concern that aggressive states would use the pretext of humanitarianism to launch wars for ulterior motives. In the past few decades, such prudential considerations have stymied the doctrinal development of humanitarian intervention. Leading public international law scholars and the great majority of states--including states that have engaged in humanitarian intervention-- refuse to endorse the legality of UHI for fear of its abuse as a pretext. If they were relieved of this apprehension, a more robust discussion of the legal rules and related institutions could begin to unfold.

Certainly, other objections exist to legalizing UHI, and I have accordingly not purported to offer a comprehensive defense of UHI. The ultimate conclusion of this article is not that UHI should be legalized, but only that the pretext objection should not remain an obstacle to such a development. That said, if we set aside the pretext objection, we might be in a better position to address other concerns about legalizing UHI. For example, one such concern relates to the ambiguity of standards for determining sufficient conditions for the right to intervene. Another is that even humanitarian-minded leaders will misapply the requirement that force be used only as a last resort. While various commentators have articulated principles and other definitional boundaries to regulate interventions and thereby address these concerns, intergovernmental institutions and politically important states have refrained from doing so. [FN187] This reluctance appears to be substantially based on the view that such formal exercises would be tantamount to discussing the appropriate method of conducting an illegal act. If a leading concern about legalization--the pretext objection--were eliminated, those actors might be more willing to discuss, sharpen, or endorse a set of standards. Such a development could constitute a considerable improvement on a system in which states occasionally engage in de facto UHI--but in which there is no substantial political debate or articulation of formal standards to regulate the practice.

In sum, systematically examining the pretext model demonstrates that it does not sufficiently comprehend important properties of international society and the political foundations of war. Accordingly, this article substantially vindicates the proposed right of humanitarian intervention against what is widely considered its most significant detractor. At bottom, the concern that aggressive states would exploit a humanitarian exception to justify military aggression should not forestall the legalization of UHI. On the contrary, legalizing UHI could significantly inhibit recourse to war by such states.

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[FN1]. See UN Press Release SG/SM/7136 (Sept. 20, 1999) (Kofi Annan explaining that humanitarian intervention presents a “core challenge to the Security Council and the United Nations as a whole in the next century”); see also David J. Bederman, Globalization, International Law and United States Foreign Policy, 50 Emory L.J. 717 (2001) (“humanitarian interventions have ... become a central issue of the foreign policies of many nations, great powers and small nations alike”). **[Note that these citations are not entirely correct (e.g., lack of italics) because the “cut” from the online Westlaw paper and the “paste” to this handout did not transfer some of the original citation features.]**

[FN2]. A conventional definition of “humanitarian intervention” is “the threat or use of force by a state, group of states, or international organization primarily for the purpose of protecting the nationals of the target state from widespread deprivations of internationally recognized human rights.” Sean D. Murphy, Humanitarian Intervention: The United Nations in an Evolving World Order 11-12 (1996). The term “unilateral humanitarian intervention” commonly refers to the threat or use of force by one or more states acting without Security Council authorization. See Michael Byers & Simon Chesterman, Changing the Rules About Rules? Unilateral Humanitarian Intervention and the Future of International Law, in Humanitarian Intervention: Ethical, Legal And Political Dimensions 177, 178 (J. L. Holzgrefe & Robert O. Keohane eds., 2003).

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