

wounded), governments will overthrow foreign tyrants by force of arms only if the casualties their military thereby incurs can be expected to be, if not minimal, at least below a certain minimum. Since real life is not exactly what we see in Rambo movies, this ensures that only countries that are weak and small (preferably, ministates), easily accessible and not likely to be succored by powerful allies, will “benefit” from the application of Professor D’Amato’s doctrine. Thus, the “favor” the United States did to the people of Panama is not one that the people of North Vietnam can look forward to.

Also in the interest of realism, yet another factor making for unevenness in the application of the doctrine should have been noted (and regretted) by Professor D’Amato. I refer to the disinclination that, for obvious reasons of domestic politics, a government (at least a democratic one) will, in the absence of special circumstances, normally have to use its military to oust a foreign dictator; unless relations between the government and the dictator are seriously strained and he is in bad odor with the majority of the population of the country concerned, its government is not likely to seek to overthrow the tyrant. Thus, even if the United States could overthrow certain other Third World despots without its military sustaining other than minimal casualties, it would not do the people under their yoke the “kindness” it did to the Panamanian people.

To conclude, I wish to make it clear that it is by no means on the sole ground of its having resulted in avoidable bloodshed that I share Professor D’Amato’s opinion that the invasion of Panama was unlawful. For I am in general agreement with the views expressed by Professors Farer and Nanda in the same *Agora* section (84 AJIL at 503 and 494, respectively). If those views are correct, no need exists for the invidious calculus by which the blessings of prospective democracy are balanced against the loss of life, other human suffering and economic losses attendant on the overthrow of despotic regimes by foreign forces.

ROBERTO LAVALLE

*Professor D’Amato replies:*

Mr. Lavalley may be surprised that I basically agree with him. The factors he mentions certainly must be taken into account in assessing the legality of any particular humanitarian intervention. The daunting nature of that assessment drives many people to abandon the enterprise entirely and seek only bright-line prohibitions against any transboundary use of force. But to me the latter choice is an abdication. The real world is complex and messy; we should not turn away from it because we insist that our legal rules be clear and simple. Those who choose simple rules are, in my opinion, doomed both to observing their constant “violation” and then rationalizing the results in law journals.

In the space of my brief essay on Panama, I was only able to suggest a few of the permutations that Mr. Lavalley notes. If my essay succeeds in convincing people to put aside the superficial clarity of Article 2(4) and take up instead the task of working out the complexities of the law of humanitarian intervention, it will have been worth writing. I hope that Mr. Lavalley will be one of those who accept the challenge.