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MARSHALL COHEN

## Moral Skepticism and International Relations

To an alarming degree the history of international relations is a history of selfishness and brutality. It is a story in which spying, deceit, bribery, disloyalty, ingratitude, betrayal, exploitation, plunder, repression, subjection, and genocide are all too conspicuous. And it is a history that may well culminate in the moral catastrophe of nuclear war. This situation has elicited a number of very different reactions from those who discourse on international relations. For some the moral quality of international relations from the Athenians at Melos to the Soviets in Poland is so deplorable that they question whether moral standards in fact apply to the international realm. George Kennan remarks, for instance, that the conduct of nations is not “fit” for moral judgment.<sup>1</sup> This ambivalent way of putting the matter betrays a nostalgia for moral assessment while announcing a skepticism about its very possibility. Benedetto Croce is beyond ambivalence or nostalgia. This self-professed disciple of Machiavelli boldly proclaimed that in the realm of international politics lies are not lies, or murders murders.<sup>2</sup> Moral categories and judgments are simply out of place in the realm of international affairs. The first task of this article will be to examine this extreme form of moral skepticism about

I am grateful to Jonathan Bennett, Charles Beitz, Michael Doyle, Thomas Scanlon, John Simmons, Barry Stroud, Judith Thomson and Susan Wolf for extremely helpful comments, and to the Society for Ethical and Legal Philosophy and the Yale Legal Theory Workshop for very useful discussion. Sections of this article were written at The Institute for Advanced Study in the academic year 1981–1982 on a grant from the National Endowment for the Humanities.

1. George Kennan, *American Diplomacy 1900–1950* (New York: New American Library, 1951), p. 87.

2. Benedetto Croce, *Politics and Morals*, trans. Salvatore J. Castiglione (New York: Philosophical Library, 1945), pp. 3–4.

international relations, first in its realist, and then in its Hobbesian, form.

The realists argue that international relations must be viewed under the category of power and that the conduct of nations is, and should be, guided and judged exclusively by the amoral requirements of the national interest. Sometimes they argue, as writers since Spinoza have argued, that if a statesman fails to pursue the national interest (and submits to some other, perhaps ethical, standard) he acts improperly and violates his contract with those he represents.<sup>3</sup> On this view, the only proper question to ask of him is whether his actions and policies advance the national interest and increase his nation's power. But the suggestion that the statesman has a moral obligation to do for his constituency whatever he has implicitly undertaken to do (on a contract, or as trustee or agent) is no better than the argument that the corporation president has an overriding obligation to sell thalidomide for the benefit of his shareholders, or that the Mafia hitman has an overriding obligation to kill for his employers.<sup>4</sup> And, in any case, these are not the terms a responsible constituency can be understood to have exacted from those who conduct its affairs. Often a democratic people will wish its affairs to be conducted in a morally acceptable fashion and it is, in any case, entirely appropriate to judge both a nation's, and its statesmen's, conduct by pertinent moral standards. A more tempting argument for the realist view that international conduct is improperly guided or judged by moral standards supposes that actions which seem to be politically acceptable in the international realm appear to be condemned by morality, and that morality must, therefore, be irrelevant to the judgment of international conduct. I argue that this view of the realists is founded on an overly simple conception of the structure of morality, one that they share with the naive moralists who are the main object of their attack. Once a more complex account of morality is provided, the realist view that international relations can only be measured against political standards of power and the national interest loses its plausibility. The substance of that more complex morality is, I believe, non-utilitarian, and I employ it to provide a moral assessment of the realist doctrine of the balance of power.

Hobbesian skepticism about international relations also rests on an

3. Spinoza, *Tractatus Theologico-Politicus*, in *The Political Works of Spinoza*, ed. A. G. Wernham (Oxford: Clarendon Press, 1958), p. 141.

4. Thomas Nagel, "Ruthlessness in Public Life," in *Public and Private Morality*, ed. Stuart Hampshire (Cambridge: Cambridge University Press, 1978), p. 80.

inadequate view of morality. But here the problem is less with the Hobbesian account of the structure of morality than with the Hobbesian view of the conditions under which morality applies. For, in Hobbes's view, issues of justice and injustice do not arise in the state of nature even as, in the view of Treitschke and Bosanquet, ethical issues do not arise in the absence of "community" or outside the realm of Hegelian *Sittlichkeit*.<sup>5</sup> I argue, however, that ethical principles apply in the state of nature even as they apply in the absence of the common life that allegedly characterizes national communities. Besides, the actual situation of states is very different from that of individuals in the state of nature.

In contrast to the realists and Hobbes, a second group of theorists grants that international relations are subject to moral requirements. Some of them argue that these requirements differ from the requirements of common morality and constitute a special "political" morality or even a peculiarly "international" one. Others like David Hume think the requirements are those of common morality but argue that they apply to princes with less force than they do to private persons.<sup>6</sup> Those who speak of a special "political," or "international," morality often contrast private or common or Christian morality with an incompatible pagan morality (as in Isaiah Berlin's Machiavelli), or with a disillusioned ethic of "responsibility" (Weber), or with an ethic of nationalism or of national self-assertion.<sup>7</sup> I argue against them that when the requirements of these alternative "moralities" are indeed legitimate they can be shown to follow from the application of standard moral principles to the unusual circumstances of international conduct. All too often, however, these special moralities sanction unlimited violence as a political means or unrestrained national self-aggrandizement as a political end, and they must then simply be rejected as morally insupportable. There is little to choose between the view that international conduct is exempt from moral assessment and the view that it is governed by a morality which sanctions and even encourages the most objectionable practices of international life. Indeed, the difference between them is sometimes merely verbal, and when it is

5. Hobbes, *Leviathan*, ed. C. B. McPherson (Middlesex, England: Penguin Books, 1968), p. 188; Heinrich von Treitschke, *Politics*, trans. Blanche Dugdale and Torben de Bille (London: Constable and Co., 1916), p. 94; Bernard Bosanquet, *The Philosophical Theory of the State* (London: Macmillan and Co., 1958), p. 325.

6. Hume, *A Treatise of Human Nature*, ed. L. A. Selby-Bigge (Oxford: Clarendon Press, 1946), p. 568.

7. Isaiah Berlin, "The Originality of Machiavelli," in *Against the Current* (New York: The Viking Press, 1980), pp. 45ff.; Max Weber, *Politics as a Vocation*, trans. H. H. Gerth

more than this the realists are probably correct in thinking their amorality less dangerous because it is less inflammatory and self-righteous. For reasons of space, and because the doctrine that there is a special morality of international relations has not, in my view, been given an intellectually impressive defense, I shall not discuss it here. I will, however, discuss the much more plausible and brilliantly elaborated view of David Hume. But I argue that Hume's view, according to which ordinary moral rules apply with less force to international affairs, derives from his false identification of the conventions of international conduct with the actual requirements of justice. Those conventions are often unjust, and demonstrating that they are in every nation's interest does not establish their justice. I conclude that international conduct is open to moral assessment. Furthermore, these assessments rest on principles that govern every domain of human conduct and govern them all with equal rigor.

#### REALISM AND POWER POLITICS

Realist writings display many serious misunderstandings of the nature of morality and, as I have suggested, these misunderstandings contribute to the realists' skepticism about the role of morality in international affairs. The post-World War II realists, for instance, often fail to distinguish between the moral and the "moralistic" or between the legal and the "legalistic." All too often the realists suggest that because "moralistic" or "legalistic" attitudes and policies are irrelevant, and even dangerous, in international affairs, morality and law are irrelevant and dangerous as well. This is, of course, a non sequitur. There is no reason why the genuine moralist cannot agree with the realist that "moralistic" politicians often claim to discern moral issues where doing so is inappropriate and self-defeating. The moralist may acknowledge, for instance, that the diplomatic recognition of a Communist regime does not imply moral approval and that it is often both permissible and politically prudent to extend such recognition to regimes whose moral principles we nevertheless reject.<sup>8</sup> Again, the genuine moralist can agree with the realist that a "mor-

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and C. Wright Mills (Philadelphia: Fortress Press, 1965), pp. 46ff.; Arnold Wolfers, "Statesmanship and Moral Choice," in *Discord and Collaboration* (Baltimore: The Johns Hopkins Press, 1962), p. 59.

8. Hans J. Morgenthau, *Politics Among Nations*, 2d ed. (New York: Alfred A. Knopf, 1959), pp. 11-12.

alistic" foreign policy, one founded on utopian ideals and sentimental slogans designed to win elections or to galvanize the passions of a democratic populace in time of war, is often hypocritical, obtuse, and self-defeating. But the moralist is not required to endorse a foreign policy because it invokes moral-sounding formulas that call on us to conquer the forces of evil, to exact war "reparations" because justice requires it, or to make the world safe for democracy come what may. He can agree, for instance, that morality did not require the Allies to demand total victory or to impose a humiliating peace on Germany after World War I. Even if Germany's actions gave the Allies the right to impose such a peace, morality did not require them to exercise it. We do not think we are morally obliged to punish children or criminals as severely as their conduct justifies if giving them another chance, issuing a moderate rebuke, or devising a rehabilitative regime is likely to produce better results. When Kennan condemns the vindictive reparation requirements imposed on Germany, or criticizes the humiliating attitude of the Western powers toward the Weimar Republic, he is not deploring something that morality or a moral attitude requires.<sup>9</sup> Indeed, the sensible moralist will doubtless agree with the realists that imposing a moderate peace of the sort Metternich and Castlereagh imposed on France after the Napoleonic wars would have been better than the Versailles approach. Similarly, morality did not require that we pursue a policy of unconditional surrender during World War II. Kennan himself admits that faced with an enemy like Hitler there may have been no practical alternative to this policy.<sup>10</sup> However that may be, the moral, as distinguished from the purely strategic, arguments against inviting the Red Army into the heart of Europe would surely have outweighed the argument that Germany must be rendered helpless and put utterly at our mercy.

The realist's critique of "moralism" is, then, often politically acute and salutary. But "moralism" is not morality, and showing that "moralistic" attitudes and policies have a pernicious influence on foreign policy does not show that morality itself must be banished from the realm of international affairs. Certainly, it does not show that a moral point of view must be replaced by a realistic one that takes the national interest to provide what Morgenthau calls "the one guiding star, one standard of

9. Kennan, *American Diplomacy*, pp. 57, 71.

10. *Ibid.*, p. 76.

thought, one rule of action" in the international sphere.<sup>11</sup> Power politics is not the only alternative to a muddled moralism.

If the confusion of "moralism" with morality provides one source of skepticism about the role of morality in international affairs, confusions about the structure of morality provide others. For many who speak in favor of a moral approach to international politics identify morality with the simple rules that in their opinion govern the conduct of ordinary life. R. W. Mowat, for instance, sees the Ten Commandments and the Golden Rule as central and remarks that they are "universal propositions without reservations, without exceptions."<sup>12</sup> Mowat's book is entitled *Public and Private Morality* and it is characteristic of writers of his persuasion to insist that the rules and principles which apply in private life apply in the public realm as well. Often, like Mowat, and like the realists' *bête noire*, Woodrow Wilson, they deplore the standard of conduct that prevails in the relations of states and look forward (in the words of Wilson's address to Congress on declaring war in 1917) to "the beginning of an age in which it will be insisted that the same standards of conduct and of responsibility for wrong shall be observed among nations and their governments that are observed among the individual citizens of individual states."<sup>13</sup>

But we do not need to invoke the special circumstances of international life to see that Mowat's position is untenable. Breaking a promise in order to aid the victim of an accident, lying to the Gestapo about the Jew in the attic, or killing a ruthless attacker in self-defense or to save a third party all constitute justifiable exceptions to the rules that Mowat and other simple moralists have in mind. If this is the case in domestic life, it is reasonable to expect that there will be exceptions to the rules forbidding promise breaking, lying, and killing in the circumstances of international life as well, and on occasion, at least, we can share Treitschke's scorn for the statesman who warms his hands over the smoking ruins of his fatherland comforting himself with the thought that he has never lied.<sup>14</sup> As Treitschke's remark suggests, the realists are correct in thinking

11. Morgenthau, *In Defense of the National Interest* (New York: Alfred A. Knopf, 1952), p. 242.

12. R. B. Mowat, *Public and Private Morality* (Bristol: Arrowsmith, 1933), p. 40.

13. Quoted by Morgenthau in *Scientific Man vs. Power Politics* (Chicago: University of Chicago Press, 1974), p. 180.

14. Treitschke, *Politics*, p. 104; R. M. Hare, "Reasons of State" in *Applications of Moral Philosophy* (Berkeley and Los Angeles: University of California Press, 1972), p. 19.

that at least some of the actions simple moralists deplore are in fact necessary, defensible, and even admirable. But since realists all too often share the simple moralist's view that these actions are proscribed by morality, they are compelled to adopt the untenable position that international conduct cannot and should not be judged by moral standards. We have here the familiar phenomenon of the skeptic or realist who is a disappointed absolutist. But this inversion of the simple moralist's view is theoretically unsound and encourages a cynicism that is, if anything, even more dangerous than the naiveté and utopianism it is meant to supplant. It is necessary, therefore, to question this inadequate view of morality and to replace it with a more complex conception that will dissipate some of the tension between the often reasonable political positions of the realists and the demands of morality as the simple moralist sees them.

We must agree, then, that any reasonably accurate account of our moral view will acknowledge that moral rules often have exceptions and that we do nothing wrong when we act within an exception. (This is, indeed, what we mean when we speak of an exception.) But we need to complicate our conception of morality still further if we are to guard against more sophisticated skepticisms that feed on what is, even with this amendment, an overly simple view of morality.

For a more sophisticated realist may argue that even a morality which admits exceptions to its rules (as his does) will not be able to accept as legitimate actions that he (and sometimes that we) nevertheless consider legitimate. For many such actions, far from falling within the recognized exceptions to moral rules, actually require us to default on our moral obligations, to violate the rights of others, or to do other things that are objectionable from a moral point of view. For instance, Britain and France unquestionably defaulted on their legal (and in this case on their moral) obligations under the Covenant of the League of Nations when they failed to impose sanctions on Italy in response to her invasion of Abyssinia.<sup>15</sup> And the Jews violated the right of the Palestinian people to live where and how they reasonably wished when they established the State of Israel. But these more sophisticated realists may argue that despite these moral infractions, what Britain and France did, and what the Jews did, was legitimate. And, since these actions were legitimate they must have been

15. I owe the example to Michael Howard.



legitimate from a "political," even if they were illegitimate from a "moral," point of view. Therefore, the realists conclude once again that in international affairs the political point of view is the appropriate or, at least, the overriding one.

But analyses of this sort are nevertheless misguided. They are flawed by their failure to appreciate the phenomenon of moral conflict. And this is a phenomenon that any adequately complex morality must acknowledge.<sup>16</sup> For it is often the case, and many would argue it is the case in the examples just mentioned, that those who violate a moral obligation do so in obedience to a weightier or a more compelling moral obligation. Thus, Britain and France failed to fulfill their duties under the League Covenant but they did so because they feared that honoring them would seriously impair their ability to defend either themselves or the fundamental values of a liberal civilization in what they could see was the coming struggle against fascism. In acting on these weightier obligations Britain and France acted not simply with political realism but in what was, from a moral point of view, the better way. Similarly, it can be argued, the Jews in asserting their religious and historical rights, and in doing what was required to secure the very existence of the Jewish people, acted on morally justifiable grounds. It is because the realist fails to appreciate the fact of moral conflict, or to understand that we are sometimes morally justified in defaulting on our obligations, in violating the rights of others, or, more generally, in doing dark and terrible things, that he develops a "political" justification for doing them. From this "realistic," political point of view he often criticizes the naiveté of the moralist's political thinking. But the fault lies rather in the simplicity of his own view of morality. For, as we have seen, that view fails to provide an adequate account of moral conflict and lacks an adequate understanding of moral tragedy.

But while stressing complexity we must avoid complicity, and it is therefore important to emphasize that many of the wrongs which so unhappily disfigure the history of international relations are wholly unjustifiable from a moral point of view. We must resist those theorists (and apologists) who discern imponderable moral conflict or inescapable moral tragedy in every act of aggression or exploitation. If the British and the

16. Bernard Williams, "Ethical Consistency," in *Problems of the Self* (Cambridge: Cambridge University Press, 1973), pp. 166–86; Ruth Barcan Marcus, "Moral Dilemmas and Consistency," *Journal of Philosophy* 17 (March 1980):121–36.

French were justified in defaulting on their legal obligations to the League, the same cannot be said of the German failure to honor Belgian neutrality. If the Jews were justified in violating the rights of the Palestinians, the same cannot be said of the Italian assault on the rights of the Abyssinians. All too often the atmosphere of international relations is precisely as objectionable as the simple moralist says it is. The actions of a Kaiser Wilhelm or a Mussolini must not be rationalized from a "political" point of view or romanticized as cases of "tragic" necessity.

Although we cannot accept the simplicities of a moral theory like Mowat's, we should endorse his view that the history of international conduct is to an alarming degree the history of unconscionable insolence, greed, and brutality. Napoleon addressing his troops suggests what is all too often its moral atmosphere: ". . . Soldiers, you are naked, [and] ill nourished . . . I will lead you into the most fertile plains in the world. Rich provinces, great cities, will be in your power. There you will find honour, glory, riches."<sup>17</sup> On sentiments like these it is not difficult to pass moral judgment. If the realist is to persuade us that such judgments are inappropriate or impossible, this will require more forceful arguments or considerations than we have so far examined.

Many realists would claim that the tradition of political theory which stretches from Machiavelli to Croce and culminates in the main line of present-day thinking about international relations provides arguments and considerations of the required sort. According to this tradition, international relations occupies an autonomous realm of power politics exempt from moral judgment and immune to moral restraint. Unquestionably, this ubiquitous school of thought displays an amazing vitality, but a systematic presentation of its views is not easy to find. Perhaps the most notable in recent times is Hans Morgenthau's classic work, *Politics Among Nations*, and it will be useful to examine it here.

A main objective of Morgenthau's book, and of the realist school, is to show that Wilsonian hopes for a moral alternative to power politics is at very least naive and sentimental. Morgenthau asserts, for example, that it is an illusion to think that "men have the choice between power politics and its necessary outgrowth, the balance of power, on the one hand, and a different, better kind of international relations on the other."<sup>18</sup> It is, therefore, surprising to discover that Morgenthau does not argue directly

17. Quoted by Mowat in *Public and Private Morality*, p. 59.

18. Morgenthau, *Politics Among Nations*, p. 155.

that this better kind of international politics is impossible. Rather, he argues more generally that since all politics is ultimately power politics the desire for a better kind of international politics is, at best, utopian.<sup>19</sup>

In defending the claim that all politics is “power” politics Morgenthau illicitly stretches this phrase beyond its traditional meaning and offers implausible biopsychological and quasi-Marxist arguments to show that domestic politics, and even that family relations, are really disguised forms of the struggle for power. It is unnecessary to examine these arguments here because even if Morgenthau were correct of thinking that all politics is power politics, these argumentative strategies would not help him. If the operation of power politics is compatible with the felicities of family life and the moderation and legal character of the most fortunate national communities, then the operation of power politics does not preclude the possibility of that “better kind” of international politics that the liberal hopes for and works toward. To the contrary, showing that all relations are infected with power politics in this sense shows that international relations do not present a unique problem or an impossible terrain for ethical conduct or ethical judgment.

If Morgenthau wishes to demonstrate that this better kind of international politics is impossible, he will have to show that international politics is power politics in a narrower sense—one that fails to characterize at least some forms of municipal politics and family life. Power politics in the required sense must be incompatible with ethical conduct and impervious to ethical judgment.

Morgenthau tries to make plausible the claim that international politics is power politics in this appropriately narrower sense by suggesting, to begin with, that at least some international activities are not political at all.<sup>20</sup> Since they are nonpolitical he does not need to show that they characteristically display a struggle for power. The fact is, however, that if (as he says) the exchange of scientific information, famine and disaster relief, cultural and trade relations, and even much diplomatic activity are free from the struggle for power, the thesis that all international politics is power politics, opaque to moral assessment, loses much of its bite. Indeed, the claim threatens to reduce to the uninformatively circular observation that the aspect of international relations which is pure power politics is the aspect of international relations which is pure power pol-

19. *Ibid.*, pp. 155ff.

20. *Ibid.*, p. 26.

itics—assuming there is one. But what, if anything, is that aspect? Morgenthau further dilutes the claim that all international politics is power politics by conceding that some nations, like Monaco, are politically inactive on the international scene or are, like Switzerland, only minimally active. Morgenthau insists, however, that unlike Monaco and Switzerland some nations, in particular, the United States and the U.S.S.R., are maximally active and their relations (again, he does not say which of their relations) constitute the paradigm of international political relations. These nations are engaged in a straightforward struggle for power, and their conduct confirms the view that international politics is best understood as an autonomous realm of power in which the actions of nations are neither motivated by ethical considerations nor subject to ethical judgment. But even Morgenthau's paradigm case is far from persuasive, and no one has stated the main objection to it more forcefully than Morgenthau himself. In another, less theoretical work, he writes that "Washington and Moscow are not only the main centers of power, they are also the seats of hostile and competing political philosophies. . . . [We have here] a conflict between two kinds of moral principles, two types of moral conduct, two ways of life."<sup>21</sup> This is, in a sense, quite true, but it suggests that we shall not understand even Morgenthau's paradigm case of international politics unless we acknowledge that the parties involved are in part ethically motivated and that their actions are subject to moral assessment. I would argue that despite alarming lapses Washington often acts in conformity with moral requirements, even in its conflicts with Moscow. After all, Washington refrained from attacking Moscow at a time when the United States enjoyed a monopoly of nuclear weapons. And, surely, moral restraint, and sometimes something more attractive, often characterizes Washington's political relations with many other, more amicable nations. Whether or not this is so, however, the way of life we are defending is founded on moral principles that are plainly incompatible with the amoral pursuit of power, for any such policy must systematically ignore the rights and fundamental interests of others. If in certain extreme circumstances a struggle for power can be justified on grounds of, say, self-defense, this will itself be a morally grounded defense. In other circumstances an unrestrained pursuit of power will be condemned by the moral principles we ourselves acknowledge.

21. Morgenthau, *In Defense of the National Interest*, p. 62.

Morgenthau might argue that, while this seems to be so, the moral principles that nations announce are simply ideological counters employed in the struggle for power. But Morgenthau has given no reason to think this is true of moral language in its international applications alone, and if the claim is meant to follow from an account of the ideological nature of moral discourse in general, it implies a broader moral skepticism than Morgenthau wants to embrace, or than we are examining here. Morgenthau also suggests that from the point of view of the political scientist seeking to predict the behavior of nations they are best viewed as entities inhabiting an autonomous realm of power. But even if this were plausible (as I think it is not), it would not follow that statesmen and citizens should view themselves as occupying an autonomous realm in which the only appropriate grounds for action and judgment are assessments of power. In Morgenthau's view

the political realist maintains the autonomy of the political sphere, as the economist, the lawyer, and the moralist maintain theirs. He thinks in terms of interest defined as power, as the economist thinks in terms of utility; the lawyer, of the conformity of action with legal rules; the moralist, of the conformity of action with moral principles. The economist asks: "How does this policy affect the welfare of society, or a segment of it?" The lawyer asks: "Is this policy in accord with the rules of law?" The moralist asks: "Is this policy in accord with moral principles?" And the political realist asks: "How does this policy affect the power of the nation?" . . . The political realist is not unaware of the existence and relevance of standards of thought other than the political one. As a political realist, he cannot but subordinate these other standards to the political one. And he parts company with other schools when they impose standards of thought appropriate to other spheres upon the political one. It is here that political realism takes issue with the "legalistic-moralistic approach" to international politics.<sup>22</sup>

Plainly, however, morality has no discrete sphere of its own (a sphere of moral "fact") parallel to, but separate from, the main areas of human activity. It is not only appropriate, but characteristic and necessary, to apply its standards to economic, legal, and political phenomena. If the economist asks which of two policies produces greater utility, the moralist

22. Morgenthau, *Politics Among Nations*, pp. 10–11.

should ask of those policies, is the distribution of utility they propose morally acceptable? If the lawyer asks of an action, does it conform to the legal rules, the moralist should ask, are those rules just? Similarly, then, if the political realist asks, how does this policy affect the power of the nation, the moralist must ask of that policy, does this increase in the nation's power, or the method of achieving it, violate the rights of others, or unfairly threaten their security, or is it, rather, within the permissible limits of autonomous action? Moral standards can and must be applied to the same phenomena that are also judged by economic, legal, and political standards. Often, too, moral standards will have to prevail over those more special standards. As we cannot accept the extreme realist view that moral concepts and judgments do not apply in the political realm, so we must also reject the less extreme, but still insupportable, view that these judgments must always be subordinated to political ones. For this requires that the decisive considerations always be considerations of power, and even its most celebrated proponents like Morgenthau cannot adhere to that deplorable doctrine unambiguously, consistently, or plausibly.

It will be useful to note briefly the related topic of the balance of power, for this central idea of Western political thinking is itself morally problematic. Morgenthau spoke of power politics and of "its inevitable outgrowth," the balance of power. And if one means by "the balance of power" any outcome the struggle for power produces, then a balance of power is necessarily, and trivially, the inevitable consequence of power politics. It will be recalled that Morgenthau also remarked that no different, better kind of politics is possible. This view is, however, highly questionable and has, in fact, been questioned by those in the mainstream of balance-of-power theorizing. For writers in this central tradition, a balance of power is not just any consequence of the struggle for power but a specific result of the exercise of power, one that displays "equilibrium."<sup>23</sup> Different writers have different conceptions of what constitutes an equilibrium. For some, an equilibrium exists when power is so arranged that its very distribution prevents the hegemony of any state over any other, or over all others, or when the distribution of power is such that the essentials of the status quo are maintained. Some writers like Rousseau think that power politics (at least European power politics) has

<sup>23</sup> Edward Vose Gulick, *Europe's Classical Balance of Power* (New York: W. W. Norton, 1967), pp. 42ff.

a natural tendency to result (or that it inevitably results) in equilibrium. Rousseau remarked that if the balance were broken "for a moment" it would soon reestablish itself so that, "if the Princes who are accused of aiming at universal monarchy were in reality guilty of any such project, they gave more proof of ambition than genius."<sup>24</sup> But it is implausible to believe that every disturbance of an equilibrium will soon right itself (this assumption may have been encouraged by contemporary laissez-faire theories of the market), and the illusions of theorists like Rousseau were soon dispelled by Napoleon's attempt to emulate the achievements of Caesar and Charlemagne. Plainly, then, at least some states will need to reject pure power politics and practice moderation and restraint if an equilibrium is to be achieved. Balance-of-power politics in the sense of equilibrium politics is, undoubtedly, different and better than pure power politics. And those who have proposed it as a norm for international politics have certainly supposed it to be a possible form of politics. But balance-of-power politics, in the sense of equilibrium politics, nevertheless permits, and even requires, actions that are morally objectionable, and the restraints it imposes are not, in general, those that morality requires.

It has often been felt that the successful conduct of a policy of this sort is incompatible with the political morality of democratic institutions.<sup>25</sup> If a balance-of-power policy is to be pursued, foreign affairs will have to be placed in the hands of those who are adept at scrutinizing and manipulating the ebb and flow of power. In addition, those who conduct foreign policy will have to divert national resources from domestic uses (even from morally urgent ones) and evade or ignore popular sentiment. This is why realists so often profess admiration for the procedures of classical diplomacy and express irritation at democratic demands for publicity ("open covenants openly arrived at"), consultation, and popular support. It explains, in part, their objection to the moralizing tendencies of the foreign policies of democratic nations. For nations practicing balance-of-power politics will have to respond to the demands of the balance

24. Rousseau, *Abstract of the Abbé de Saint Pierre's Project for Perpetual Peace in The Theory of International Relations*, ed. M. G. Forsyth, H.M.A. Keens-Soper, and P. Savigear (London: George Allen and Unwin Ltd., 1970), p. 138.

25. Ernst B. Haas, "The Balance of Power as a Guide to Policy-Making," *The Journal of Politics* 15 (August 1953): 376-77; Hedley Bull, *The Anarchical Society* (London: The Macmillan Press, Ltd., 1977), p. 109.

rather than to their own moral, political, and religious sympathies and commitments. As balance policies required Francis I to ally himself with the Turk, and Spain to support the Huguenots against Richelieu, so democratic nations will have to favor authoritarian regimes over liberal ones when the balance requires it. Worse yet, democratic nations will have to violate their own sense of justice for they cannot take sides on the merits of any international dispute whose resolution affects the balance of power. The dispute will have to be resolved on other grounds. This applies not only to moral disputes, but to legal ones as well, and it effectively undermines the possibility of a legal world order founded on any principle other than the balance of power itself. For where the balance of power governs, the disinterested judgment, the solemn treaty, and the legal and moral rights of others must always be sacrificed to the demands of that balance if sacrificing them is required to preserve it. No doubt, many actions have been taken in the name of the balance that it did not, in fact, require. Even so, the balance has been invoked to justify (and on an appropriate view of the facts could justify) promoting civil unrest (the United States “destabilizing” Chile), opposing liberal or nationalist revolutions (the Holy Alliance), intervening in constitutional arrangements (the eighteenth-century wars of succession), preventing states and provinces from realizing their national ambitions (French and Russian policy toward the German principalities), forcing a state to unite with another against its will (Belgium with Holland), imposing neutrality on a state (Belgium), colonizing a territory (European “compensatory” colonizations of Africa), bringing states within an appropriate sphere of influence (the Yalta agreements), annexing them (Napoleon III compensating himself with Savoy and Nice), partitioning a nation and extinguishing its sovereignty (Poland), or engaging in preventive war against it (William of Orange striking at France, Austria “anticipating” Russia in the Balkans in 1914).

This is not a pleasant survey, and Morgenthau’s assertion that international politics constitutes an autonomous realm in which moral considerations, if not prohibited, must be subordinated to calculations of power does nothing to quiet the objection that either a moral defense of these apparent violations of fundamental rights and interests must be provided or their unacceptability acknowledged. Many proponents of the equilibrium version of the balance doctrine undoubtedly believe that they have such a defense. They argue that arriving at an equilibrium maxi-



mizes the general welfare (by achieving stability and encouraging peace) or that it minimizes the (weighted) sum of rights which are violated (by preventing the hegemony of any state and securing the sovereignty of the parties to the balance). But neither of these justifications is acceptable from a moral point of view (and they are usually unacceptable on empirical grounds as well). Utilitarianism is an objectionable moral philosophy and especially so a version of utilitarianism that routinely permits the invasion of men's rights to achieve marginal improvements in the general welfare. (We would not be justified in depriving a minority of its fundamental political rights because this contributed marginally to the security, or markedly to the economic well-being, of the majority.)<sup>26</sup> Nor do we accept what Robert Nozick calls a "utilitarianism of rights," which routinely permits the violation of some rights if this will minimize the violation of rights more generally.<sup>27</sup> (We would not be justified in permitting a thief to steal a man's property so that the thief might subsequently join us in preventing others from stealing.) For these reasons we cannot accept a balance-of-power policy that is justified in either of these ways. It is not enough to argue, as the Abbé de Pradt did, that the extinction of Polish sovereignty contributed to the European equilibrium to show that this violation of the received rights of an ancient people could be accepted.<sup>28</sup> Nor is it legitimate to argue that the Prussian acquisition of Silesia in the eighteenth century or of Saxony in the nineteenth was justifiable because it improved the European balance and further secured the sovereign rights of other parties to the balance. (And it would not have been justified even if we were ignorant of the actual role played by a strengthened Germany in the history of the twentieth century.)

Even if we thought some form of traditional utilitarianism or of the "utilitarianism of rights" morally acceptable, it is doubtful whether either would provide a satisfactory foundation for the balance doctrine. This is so because achieving a balance of power is not necessarily the best way (and, indeed, it might be a disastrous way) to protect rights or to secure the general welfare. Often, for instance, it will be preferable to maneuver against, or simply to oppose, those who are actually threatening. However,

26. John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), pp. 60–61.

27. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, Inc., 1974), pp. 28–29.

28. Gulick, *Europe's Classical Balance*, pp. 37n.–38n.

the balance theorist (or at least the balance theorist in his most characteristic form) asks us to focus our attention exclusively on configurations of power, and this requires us to disregard assessments of intention. Fénelon, for instance, tells us that nations should cut down to size any country that is by its nature too large, by its industry too rich, or by its inventiveness too powerful, simply on these grounds and without giving consideration to its past practice or present intentions.<sup>29</sup> Morgenthau invokes the authority and practice of his hero, Churchill, and tells us that if we view the world through the eyes of the political realist we will consider political consequences only, and ignore intentions (which are mainly of interest to the “legalistic-moralistic” mind).<sup>30</sup> But the fact is that Churchill was acutely interested in the intentions of nations and of their leaders. As Inis Claude argues, in 1936 Churchill quite properly insisted that Britain maneuver against Germany rather than France on the ground that France, although apparently the strongest power on the continent, had no aggressive intentions while Germany was possessed by a will to dominate.<sup>31</sup> Surely this policy served the general welfare better than a policy of maneuvering against France. This makes it clear that in certain circumstances, at least, a preponderance of power in well-intentioned hands may serve the general welfare better than a technical balance. It also shows that a balance policy is not necessarily the best way to minimize the violation of rights. If Churchill has followed Fénelon’s recipe, he would not have hesitated to violate France’s rights had this seemed necessary to achieve a balance. But this violation of rights, in addition to being unjust, would have been extremely imprudent (by strengthening Germany) and would almost certainly have led to a much more widespread violation of rights. In some circumstances, at least, pursuing the balance of power is not the best way to achieve the alleged objectives of the balance system.

It may be argued that there is no reason why the realist or the balance theorist is precluded from considering the intentions of statesmen and nations. He may, for instance, consider intentions if he regards them solely as evidence of future dimensions and patterns of power. It might be suggested that this is all Churchill did, but this is implausible. For an

29. *Ibid.*, p. 50.

30. Morgenthau, *Politics Among Nations*, p. 6.

31. Inis L. Claude, Jr., *Power and International Relations* (New York: Random House, 1962), pp. 64ff.

aggressive Germany would be more dangerous than a pacific France even if France remained the greater power. After all, Churchill did not try to strengthen the enemies of the United States, as in the nineteenth century (at least after 1815) the United States did not give military support to the enemies of Great Britain. Intentions are not of interest simply as indices of power and potential power. Considering them is essential to understanding, judging, and predicting how power will be used. Great statesmanship must be realistic. But realism is not simply a matter of caution and cynicism, and it does not require that we always assume the worst. The Athenian generals who destroyed Melos exaggerated. Sometimes statesmen and nations do not intend to do "what they can."<sup>32</sup> Those who make this assumption cannot invoke the wisdom of a Churchill in its defense.

It is, of course, possible for the balance theorist to concede that in certain cases his preferred policy will be unfortunate for his nation and produce worse general results than a less simple-minded one. He may argue, nevertheless, that unyielding pursuit of the balance will, in general and in the long run, prove the best policy. But because this policy will often require strengthening dangerous and aggressive powers while weakening innocent and pacific ones, and since we can at least sometimes distinguish the one from the other, there is little to be said for this un-discriminating view.

This is not to deny that the relations of power among states are a matter of central and legitimate concern. They should be carefully scrutinized and intelligently managed. Nations may, as seems prudent, improve their defenses, arrange their alliances, and apportion their resources between domestic and foreign objectives in response to perceived patterns of power and their expected use. As long as these activities respect the limits set by the rights of others, they will not be open to the kind of objections we have so far brought against balance-of-power policies, although an exclusive concern for one's own, or even for the system's, security at the expense of support for one's moral friends, or for those in distress, is open to other kinds of moral objection.

Some will say that this much more benign conception of the management of power, a conception which requires that the search for a balance take place within established moral boundaries, comes very close to what

32. Thucydides, *The Peloponnesian War*, ed. John Finley, Jr. (New York: The Modern Library, 1951), p. 331.

some balance-of-power theorists have intended. This is, indeed, true and there is no reason to deny that some have used that disastrously ambiguous term “the balance of power” to describe an approach to international politics which acknowledges the existence and pertinence of moral considerations and limits. Brougham, for instance, would not permit intervention except where danger is extreme, and Gentz insisted on respect for acquired rights. He rejected the violations of Poland’s rights as an outrage against the balance system and Brougham, who thought that something like the Prussian acquisition of Silesia necessary to stabilize the European balance, nevertheless regarded it as impermissible because it violated Austro-Hungary’s ancient rights.<sup>33</sup> Indeed, these and other writers suggested that the balance system operated within the moral constraints of a “European” republic and that the pursuit of power within it was subject to limits well understood by those who participated in the system. This is unquestionably true and compromises any attempt to attribute the achievements of the system (the avoidance of hegemony, the survival of many small states) to a balance system in which moral concerns are always considered irrelevant or subordinate, or even to one in which the rights of peoples are routinely sacrificed to the broader requirements of the international system. For these achievements are attributable in part to the influence of the particular religious, moral, and legal restraints accepted by the parties to the system.<sup>34</sup>

This conclusion will seem naive to some, for it is a deeply ingrained belief among those who regard themselves as politically sophisticated that “power” politics and its “balance-of-power” considerations inevitably take precedence over ethical requirements. Here, again, we meet a confusion already encountered. For some of the actions which simple moralists condemn as immoral and realists defend as, nevertheless, politically necessary are in fact defensible on more complicated moral grounds. If, despite our commitment to the principle of national self-determination, we think that sacrificing the national aspirations of the Sudeten Germans and the Austrians at Versailles was justified, we think so because in this case the moral importance of weakening German power in order to prevent another World War was great enough to override it. To describe this as a purely “political” act is to misdescribe it, and to describe it as an attempt to achieve a balance of power is to describe it very incompletely.

33. Gulick, *Europe’s Classical Balance*, pp. 48, 62–63.

34. Morgenthau, *Politics Among Nations*, pp. 194ff.

Even such a notorious act of the old “balance-of-power” politics and “secret” diplomacy as the Allies’ signing of the Treaty of London (1915) can be viewed in a similar way. Had the Allies failed to accede to Italy’s demands on Slav territory as the guerdon of Italy’s defection from the Triple Alliance, they would have left the Central Powers free to deal with the Russians, thereby prolonging an appalling war and perhaps even risking final defeat in a contest of genuine moral significance. What some denounce as a cynical act of balance-of-power politics, and others defend as such, can also be viewed and defended as a painful, perhaps even tragic, but nevertheless morally proper, course of action. And similar remarks will need to be made about some of the occasions on which we support authoritarian regimes (perhaps Korea), engage in military interventions (possibly Lebanon in 1958), or build nuclear arsenals (of second-strike weapons) to restore the balance of power. For there will be occasions on which restoring the balance of power is a genuine matter of self-defense or where the moral rights and interests at stake are so great that they override lesser, even if very important, moral claims. In this way the complex moralist can accommodate the political realists’ plausible cases, for these are cases in which a satisfactory moral argument can be given. But he will condemn the realists’ theory and think that in describing even the morally justifiable cases as justified on purely political, or balance-of-power, grounds the realist has obscured (and perhaps deliberately obscured) the distinction between morally justified and morally unjustified action. Even when he agrees with the political realist on hard or controversial cases the complex moralist will do so only after having made a difficult moral judgment. And often, of course, he will reject as morally unacceptable policies and actions that realists, and if not realists then the realists’ theory, recommends. It is not only simple moralists and naive liberals who condemn the partitions of Poland, the overthrow of the Spanish constitution of the Cortes, the European powers’ compensatory colonizations of Africa, the United States’s destabilization of Chile, the Soviet intervention in Afghanistan, the superpowers’ acquisition of first-strike weapons, or any of the other deplorable and even scandalous actions that have been and continue to be an all too visible feature of the international scene. For if balance-of-power policies cannot be defended by invoking the implausible thesis of the autonomy of politics, merely establishing that an action contributes to an equilibrium of power does not show that it is acceptable from a moral point of view either.

As we have seen, it is important to distinguish balance-of-power or equilibrium politics from pure power politics, for equilibrium politics requires that nations restrain their pursuit of the national interest when this is required to achieve a proper balance. There is, however, a strong tendency for the balance system to degenerate into a pure struggle for power. In part this is attributable to difficulties inherent in the notion of power. Even assuming that we all knew which distribution of power the balance required, there would still be grave difficulties in deciding what constitutes having power, in comparing incommensurable types of power, and in determining how much power each nation actually possesses. Do a nation's high morale and settled politics count as well as its military arsenal and industrial potential? And how, further, are we to measure and establish a nation's morale or its technical achievement? (What can the Russians actually do?) Rough estimates are, of course, possible, but the temptation is strong for nations to err on the side of safety in ambiguous or difficult situations. In doing so they will often appear threatening to others. The question of allies is crucial, too, for allies may enhance one's power. But will they, like the irredentist Italians, defect? In sheer self-defense it may seem necessary to increase one's power instead of restraining it in the interest of an indeterminate balance. There is a strong tendency, then, for the balance-of-power system to degenerate into a state of nature. And this is, surely one of the most powerful objections to it as a practical proposal. Indeed, writers from Hobbes to Raymond Aron have claimed that nations actually inhabit this state.<sup>35</sup> If we combine this assumption with Hobbes's contention that in a state of nature there is neither justice nor injustice, we encounter the most powerful as well as the most influential intellectual foundation for the view that the realm of international affairs cannot be judged, or governed, by moral standards. We must examine it.

#### HOBBS AND THE STATE OF NATURE

Hobbes's doctrines are open to many interpretations, and every major interpretation has had its influence on the theory of international relations. According to one view, Hobbes is a moral subjectivist and a moral authoritarian. In the state of nature individuals can employ moral lan-

35. Hobbes, *Leviathan*, p. 187; Raymond Aron, *Peace and War*, trans. Richard Howard and Annette Baker Fox (New York: Frederick A. Praeger, 1968), p. 580.

guage only to signify their own appetites and desires as, in the view of contemporary political realists, nations can employ language only “ideologically.”<sup>36</sup> In Hobbes’s view, as in the view of the realists, this subjective use of language only exacerbates the difficulties of endeavoring peace. The realists often suggest, therefore, that we abandon the use of moral language altogether when we speak in the international state of nature. If we confine ourselves to speaking the language of the national interest, we are more likely to achieve sensible accommodations. In Hobbes’s system instituting a sovereign provides the remedy, for he can endow moral language with objectivity. Sovereigns “make the things they command just by commanding them and those which they forbid unjust by forbidding them.”<sup>37</sup> If we accept Hobbes’s account of the sovereign’s commands, or his laws, as the source of justice and injustice, we shall have to concede that in the absence of an international sovereign, perhaps in the form of an effective, law-giving world government, the use of moral language in international contexts is nothing more than ideology, or in Hobbes’s terms an expression of “appetites and aversions” that encourage “disputes, controversies, and at last war.”<sup>38</sup> Hobbes’s view of moral appraisal is, however, unpersuasive. If acts and omissions are just or unjust only when they are commanded or permitted by the sovereign, acts and omissions to which the sovereign’s law does not speak could be neither just nor unjust. Yet we often consider harsh actions, chilly responses, and accusing words unjust although the law does not forbid them, even as we consider acts of restoration or recompense to be demanded by justice although the law does not require them. More importantly, if justice is what the sovereign commands and injustice what he forbids, it would make no sense to judge the sovereign’s own acts and rules just or unjust. Yet the criticism of law and government on moral grounds is one of the central moral activities.

We cannot identify justice and injustice with the sovereign’s commands and our refusal to do so suggests one of our reasons for enduring the perils of international society as we know it. We fear that a world sovereign might become an invincible international tyrant or disclose

36. J.N.W. Watkins, *Hobbes’s System of Ideas* (London: Hutchinson University Library, 1973), p. 110.

37. Hobbes, *De Cive*, ed. Sterling Lamprecht (New York: Appleton-Century-Crofts, 1949), p. 129.

38. Hobbes, *Leviathan*, p. 216.

himself as our deadliest enemy invested with enhanced political legitimacy. We cannot concede that what such a sovereign deemed just would in fact be just (or that his command made it so). Nor can we acquiesce in Hobbes's view that in the absence of a sovereign our judgments about the international realm are mere expressions of appetite and aversion. Like much moral skepticism about the international realm, this view is one manifestation of a far more pervasive and unacceptable moral skepticism.

In the absence of a law-giving and law-enforcing sovereign, Hobbesian individuals inhabit a state of nature, a realm of intense competition and insurmountable insecurity in which the life of man is solitary, poor, nasty, brutish, and short. It is, in fact, a realm in which the main objective must be self-preservation and in which we enjoy what Hobbes called the right of nature, the right "by all means we can, to defend ourselves."<sup>39</sup> In the state of nature Hobbes thinks this requires seeking "power after power," and in this situation "to have all, and do all, is lawful to all."<sup>40</sup> Those who believe that the international arena is itself a state of nature often argue that states also have a right to act on what Morgenthau calls "the moral principle of self-preservation" which, in the state of nature not only permits them, but (going beyond Hobbes) may actually require them, to pursue the national interest and maximize national power (to seek "power after power") without regard to other moral considerations. As Raymond Aron says "the necessity of national egoism derives from what philosophers called the state of nature which rules among states."<sup>41</sup>

We may concede that in the state of nature individuals have a right to defend themselves against physical attack. Indeed, we may think they act justly when they do so, and argue that this in itself insures the notion of justice application in the state of nature. By the same token, it seems clear that (other things being equal) it would be unjust to attack others when doing so was not required for self-preservation. Even in the individual state of nature it is questionable whether this principle of self-preservation permits us to "do all."

Hobbes claims, for instance, that in the state of nature men are equal in the sense that even the weakest can kill the strongest.<sup>42</sup> But, in fact, young children, and those who are seriously incapacitated by injury or

39. *Ibid.*, p. 190.

41. Aron, *Peace and War*, p. 580.

40. Hobbes, *De Cive*, p. 28.

42. Hobbes, *Leviathan*, p. 183.



disease, will often constitute no threat even in the Hobbesian state of nature. To rape or kill them would clearly be unjust.<sup>43</sup> Not even for all practical purposes does the right of self-defense yield a right of universal aggression. This right comes into play only in certain circumstances and incorporates principles of parsimony and proportionality.

If individuals are prohibited from attacking those who do not threaten them, so are nations. Even in the international state of nature it will not be permissible to attack the young or the unwell intentionally or, more generally, those who do not constitute a physical threat. In addition, attacks must be repelled, and offensives conducted, by appropriate means. These principles support the doctrine of civilian immunity and find expression in the laws of war. Insofar as this body of law fails to reflect such principles, it is itself open to criticism. Here law is not the source of criticism as it must be in Hobbes. Rather, it is the object of criticism.

Even in the state of nature, then, the use of violence cannot be justified on every occasion or in every degree. In particular, not every interest can be defended by an appeal to self-preservation. The implications of this fact are especially important in the international realm. For Hobbesian theorists of international relations often claim that states possess a "moral right of self-preservation" or enjoy a right to "national security." Hobbes himself called the Leviathan an "Artificial Man" and believed that like individual men it possessed a right of self-preservation. For he writes that ". . . the same elements of natural law and right . . . being transferred to whole cities and nations, may be taken for the elements of the laws and right of nations."<sup>44</sup> But it is far from obvious that because individual men have a natural right of self-preservation, states do so as well. Certainly we do not think that all collective entities enjoy a right to "do all" to preserve themselves. This is not true of the Mafia or the Sierra Club, of General Motors or the Ethical Culture Society, of the Comintern or the Roman Catholic Church. Or if such a right is claimed for one or another of these institutions, the right will have to be defended. This is true of the state as well. Unquestionably, there are many ways in which such a right might be defended. A right to property might be invoked, or a right of people to live together under political institutions of their own choice, or even a right to live in close association with those who share the same

43. Marcus Singer, "State of Nature Situations," in *Essays in Moral Philosophy*, ed. A. I. Melden (Seattle: University of Washington Press, 1958), p. 157.

44. Hobbes, *De Cive*, p. 158.

language and cultural aspirations. There is something to be said for (and against) each of these suggestions, but they are far from Hobbesian in spirit. For I take it that a Hobbesian defense of the state's right of self-preservation would attempt to draw its justification from the individual's natural right of self-preservation. Perhaps this is what Hobbes is suggesting in his far from lucid observation that "every Sovereign hath the same right, in procuring the safety of his people, that any particular man can have, in procuring the safety of his own body."<sup>45</sup>

The scope of this right is by no means clear and Arnold Wolfers, among others, has complained of a similar "ambiguity" in the concept of national security.<sup>46</sup> For some, the right of self-preservation permits the state to defend any of its interests including, perhaps, its ideological influence and its economic advantages. For others the right of self-preservation permits the state to defend only its legal rights. This still very expansive conception has been central to international law up to the 1930s (and has, in the questionable judgment of some, been given renewed support by the opinion of the International Court of Justice in the Corfu Channel Case). But Article X of the League of Nations Covenant and Article 2(4) of the United States Charter suggest a much narrower conception.<sup>47</sup> The right of self-defense (as it is now called to distinguish it from the broader conception of self-preservation) is the right to defend what for many are the essential features of the state: its territorial integrity and political independence. Some have argued that the right of self-defense permits a state to employ force solely in defense of its territorial domain. In this spirit, Article 51 of the United Nations Charter defines self-defense by reference to the concept of "armed attack."<sup>48</sup>

Hobbesians may claim that a defense of some, or even of all, these readings of the state's right to self-preservation can be founded on the individual's right of self-preservation. For it can be argued that the defense of all, or at least of some, of these interests is necessary if the state is to guarantee the physical security of its citizens. But this is implausible. A state's failure to defend its ideological influence, its economic advan-

45. Hobbes, *Leviathan*, p. 394.

46. Arnold Wolfers, "National Security as an Ambiguous Symbol," in *Discord and Collaboration*, pp. 147–67.

47. Ian Brownlie, *International Law and the Use of Force by States* (Oxford: Clarendon Press, 1963), p. 256.

48. *Ibid.*, pp. 256, 264–68.

tages, or even many of its treaty rights, may in no way decrease its ability to provide for the physical security of its population. The argument may seem more persuasive when the state's territorial integrity and political independence are at issue. But even here the argument is not compelling. The state may actually improve its ability to guarantee the physical security of its citizens by surrendering territory (as Israel has done) or by extinguishing its sovereignty (as the American colonies and the German principalities did). The death of the state does not require the loss of a single life. Indeed, it may even save some.

Hobbesians may then attempt a less ambitious argument. They may concede that a defense of its economic advantages, or even of its territorial integrity, is not necessarily required if a state is to protect its citizens. They may insist, however, that the defense of these interests increases the likelihood that the state will be able to provide that security. In view of this fact we should concede that the state has a right to defend these interests when it believes that doing so will enhance security. But this line of argument is also unpersuasive.<sup>49</sup> We do not have a right to increase our security by working injustices on others or by endangering their security to an unacceptable degree. Perfect security might require, but could not in itself justify, world domination. And incremental improvements in one nation's security do not, as a matter of course, justify the violation of the right of others to live in communities of their choice, to reform unfair economic arrangements, or to enjoy a reasonable measure of security themselves. As with other goods in limited supply, individual and national security are themselves subject to a principle of distributive justice. The requirements of natural justice, and the political rights of others, place strict limits on the pursuit of the "national interest" and on the striving for "power after power" in the search for national "security." Certainly, they do not allow those who are internationally well placed "to do all and have all."

A weaker claim may nevertheless succeed. While the state may not always need to defend its territory, or maintain its independence, in order to provide for the physical security of its population, often it will. It is, therefore, reasonable to provide a legal right to do so. Of course, legal rights cannot always conform exactly to the contours of the moral rights they protect, but they can nevertheless draw strong moral support from

49. Charles Beitz, *Political Theory and International Relations* (Princeton: Princeton University Press, 1979), pp. 52ff.

them. A legal right to state self-preservation will lack moral justification to the extent that it permits the use of force against others simply to increase state security (as did the traditional right of “self-preservation,” an easily penetrated disguise for a right of war). The best formulation of the rule is an enormously difficult matter. But to be equitable and to protect the rights of the innocent any reasonable version must (with very few exceptions) confine the right to situations in which an attack, the threat of an attack, or preparations for an attack can be established. A narrowly drawn rule like the one announced in Article 51 of the United States Charter is probably very desirable. But if the rule is understood to forbid “preventive” attacks it may, in certain situations, conflict with the natural right of self-defense that underlies it. Although the fact that this rule is a rule of law itself carries moral weight (how much will depend in part on the degree to which it is observed in international life), the rule may have to give way in these circumstances to deeper moral considerations. Often, however, the plea of self-defense will have little plausibility. Authoritative pronouncements assure us that the plea was without justification in such cases as the Japanese invasion of Manchuria, the Italian invasion of Abyssinia, and the German invasion of Norway.<sup>50</sup> Certainly, any morally tenable account of the right of self-defense, individual or collective, requires that a distinction between aggression and self-defense be maintained.

Hobbesian theorists of international relations will protest that these remarks fail to take seriously Hobbes’s contention that the state of nature is inevitably a state of war. From their point of view it is pointless to speak of moral constraints on the pursuit of interests other than the security interest. For the nation-state is in fact overwhelmingly and inescapably preoccupied with the provision of security, and the logic of international relations is the logic of individuals in the Hobbesian state of nature writ large. As the Hobbesians see it, the “competition” for goods and resources brings nations into direct conflict with one another and in this conflict one nation’s gain is, or will appear to be, another nation’s loss. Still worse is the effect of what Hobbes calls “diffidence.” Even where nations are content with the status quo and do not wish to threaten others, they have no assurance of one another’s present intentions, not to mention future

50. Ian Brownlie, *International Law*, pp. 242–43, 311.

ones. Out of fear nations will therefore seek “power after power” in order to increase their security. But in doing so they inspire fear in others and decrease, or appear to decrease, their security. In this “security” dilemma, nations whose intentions are fundamentally pacific appear aggressive. They will be forced to strengthen themselves in ways that alarm others and out of fear may “anticipate” or engage in preventive attack. Thus, even nations whose intentions are basically defensive and cooperative will act in ways that are indistinguishable from those who are in fact hostile and aggressive. Of course, some nations will in fact be hostile and aggressive and this further aggravates everyone’s fears. Then, too, like Hobbesian men some nations seek “glory.” If they sought glory in a reputation for peacefulness and generosity, this would be one thing, but nations have often understood glory to consist in the display and exercise of military power. For them, an increase in glory must always come at the expense of another.

In one degree or another these features characterize many international situations. Europe on the eve of World War I may have been one example. But Hobbes himself observed that the state of war among nations does not create the same degree of misery as the state of war among individuals, and it is important to notice the differences between them because they have important moral consequences. To begin with, nations are not as vulnerable as individuals in the state of nature and it is not true that they and their citizens invariably live in fear of violent death. Nations in the state of nature are better able to defend themselves than individuals are. As Spinoza observed, states are not overcome by sleep every day, they are not afflicted with diseases of mind and body, and they are not prostrated by old age.<sup>51</sup> Even in the state of war, as Hobbes observed, “Particular Sovereigns are able to uphold the industry of their subjects.”<sup>52</sup> If nations do not share the vulnerability of individuals, neither do they share their equality. It is not true of them that the weakest can kill the strongest. The nineteenth-century United States, because of its size, its location, and the protection of the British navy, enjoyed a high degree of security. Large and well-armed nations, and nations protected by oceans and mountain ranges, are often in a similarly secure situation and do not live in a condition of Hobbesian fear. They are in a position to show

51. Spinoza, *Tractatus Politicus* in Wernham, *The Political Works*, p. 295.

52. Hobbes, *Leviathan*, p. 188.

restraint, to calm the fears of others, and even to create the conditions of peace. Often it is their duty to do so. It is also important to note that in contrast to Hobbesian individuals, nations can often improve their security in ways that need not alarm others. Their best defense is not always an attack, and they can often give evidence of their peaceful intentions by choosing weapons and strategies that do not threaten others. They can build forts, mount fixed guns, mine harbors or, like the Russians, build wide gauge railway tracks that are useless to invaders. They can also train civilian militias, study guerilla warfare, and prepare themselves for passive resistance. To be sure, there are circumstances in which these defensive choices could be aspects of a fundamentally aggressive design, but this is not invariably the case and will not always seem to be.<sup>53</sup>

Individuals in the Hobbesian state of nature are anonymous and ahistorical. But nations have names and reputations, geographies and histories, principles and purposes, and these allow others to judge their intentions with considerable confidence. Sometimes these intentions will be cooperative and even friendly. For nations have allies, belong to regional blocs, engage in mutually beneficial trade, and support larger cultural enterprises. They will often have strong moral reasons to perpetuate these relationships. Hobbes's suggestion that because nations retain their sovereign independence they must be in a state of war in which every nation has a "known disposition" to attack every other and in which no "assurance" can be obtained flies in the face of the evidence and suggests the presence of a stubborn philosophical thesis that its proponents are unwilling or unable to submit to empirical test.

Some have argued that the advent of nuclear weapons brings the international realm closer to the Hobbesian state of nature than it has ever been before. As David Gauthier observes "each new effort we undertake to increase our security merely increases the insecurity of others, and this leads them to new efforts which reciprocally increase our own insecurity. This is the natural history of the arms race—a history which bids fair to conclude, later if not sooner, in mutual annihilation."<sup>54</sup> But some of the observations we have made about the prenuclear period are

53. Robert Jervis, "Cooperation Under the Security Dilemma," *World Politics* 30, no. 2 (January 1978): 167–214. Most of this paragraph and much else in my discussion is drawn from this article.

54. David Gauthier, *The Logic of Leviathan* (Oxford: Oxford University Press, 1969), p. 208. This quotation needs to be considered in the context of Gauthier's full discussion.

relevant to the nuclear era as well, and they show that while we may get ourselves into the situation Gauthier describes, this is by no means inevitable even in the absence of a world sovereign.

The Hobbesian situation is most closely approximated when both sides rely on vulnerable weapons that are capable of destroying weapons on the other side (highly accurate missiles in unhardened silos).<sup>55</sup> As in the classic Western gun duel, the obvious strategy in such circumstances is to “anticipate,” to shoot and shoot first. Any nation that can mount a successful first strike without using all of its weapons is free to destroy entire enemy populations. But if the first strike does not succeed in taking out the other side’s retaliatory force, both may be destroyed utterly. Nevertheless, the existence of nuclear weapons does not make a situation of this sort inevitable. By confining themselves to second-strike weapons, nuclear powers can make clear that they do not intend to initiate nuclear war. If both sides acquire invulnerable, second-strike weapons then neither side can, by shooting first, destroy the other side’s deterrent, its capacity to strike back. If a nuclear nation shoots, it must be prepared to pay the penalty. In this situation there is far less reason to jump the gun, and less reason to fear that others will do so.

It is not true that in the nuclear world “each new effort we take to increase our security merely increases the insecurity of others, and (that) this leads them to new efforts which reciprocally increase our own insecurity.” We can increase our second-strike capacity without increasing the insecurity of others. And to the extent that they are likely to strike out of fear of being struck, we can, as Oskar Morgenstern has suggested, increase our own security by helping our adversaries make their own second-strike forces invulnerable. Their insecurity increases our insecurity, but we can increase our security by increasing theirs. The fact that nuclear nations can destroy one another’s populations unquestionably strengthens the analogy between the individual, and the international, state of nature. But the fact that nuclear nations—unlike Hobbesian men or gun duellers—can respond in kind after they have been hit undermines it. The balance created by the equality of Hobbesian men, or by the “equalizer” of the Old West, is unstable, but the nuclear balance is capable of stability if one nation cannot, by “anticipating,” prevent the other from striking back.<sup>56</sup> In these circumstances there is no advantage

55. Jervis, “Cooperation,” p. 212.

56. Thomas C. Schelling, *The Strategy of Conflict* (Oxford: Oxford University Press, 1971), p. 232.

in striking first and, if they are rational, nuclear nations will see that it is irrational to strike at all.

This stability will, of course, be lost if either side believes that the invulnerability of its retaliatory forces is endangered. There is a strong obligation, therefore, to eschew the development of a first-strike capacity if a nation can achieve reasonable assurance that the other side is not developing one. In appropriate circumstances, then, it will be morally inexcusable to reject measures (like adequate inspection schemes) that will reassure one's opponent, or even to renounce weapons whose uses are ambiguous. For these are precisely the weapons that can return us to a Hobbesian dilemma in which what one side believes, or claims to believe, are defensive, or in this case deterrent, weapons appear to the other side to be offensive, first-strike weapons. The primary obligation of the nuclear age is to abstain from the first nuclear strike and to adopt policies, especially as regards adequate conventional strength, that reduce the temptation to make such a strike. A more general obligation in situations of serious conflict is to try to see ourselves as others see us. This is always a weighty consideration for those in Hobbesian situations. But it is a supremely weighty one in the nuclear situation where the acquisition of ambiguous weapons can easily be misinterpreted by others and with disastrous effects. Moral blindness in this area may bind us all to the final wheel of fire. The Hobbesians could not be more wrong. It is precisely in what they regard as a state of nature that men and nations must acknowledge their most awesome moral responsibilities.

#### HUME AND THE MORALITY OF PRINCES

In Hume's view, too, there is neither justice nor injustice in the state of nature. In contrast to Hobbes, however, Hume believes that nations no longer inhabit the state of nature. The actions of states are, therefore, subject to the rules of justice.<sup>57</sup> In making this affirmation Hume rejects the radical skepticism concerning international morality that realists and Hobbesians profess. Hume holds, however, that the morality of nations is "more free" than the morality appropriate to individuals, and the rules of justice apply to princes with less force than they do to the conduct of private persons.<sup>58</sup> This moderate skepticism about international morality, though more plausible than the more radical forms we have so far con-

57. Hume, *Treatise*, p.567.

58. *Ibid.*, p. 568.



sidered, is nevertheless unacceptable. As we shall see, Hume's analysis is unsatisfactory because he does not distinguish clearly enough between the conventions of international conduct and the requirements of international morality. (E. H. Carr, who holds a similar view, identifies individual morality with a "codification of existing practices.")<sup>59</sup> These conventions and practices are, however, unjust and they must be judged by the standards of morality which apply with equal force to princes and private persons, in the domestic and in the international arenas.

In Hume's view man's avidity for possessions is insatiable, perpetual, and universal. But man comes to see that in the long run his best hope of acquiring and securing possessions is to accept the restraints imposed by the rules of justice. He therefore agrees to relinquish the freedom to appropriate the goods of others that he enjoyed in the state of nature on the condition that they forgo it as well. Men therefore adopt the rules of justice and enter into mutually advantageous conventions guaranteeing the stability of possessions, their transference by consent, and the performance of promises. Because nations differ from individuals in significant ways, they regulate themselves by a new set of rules, the law of nations. Hume mentions, in this connection, the sacredness of the persons of ambassadors, the declaration of war, and the abstaining from poisoned arms. But these new rules do not abolish the fundamental rules of justice for it is as true of nations as it is of men that "Where possession has no stability, there must be perpetual war. Where property is not transferred by consent, there can be no commerce. Where promises are not observed, there can be no leagues or alliances."<sup>60</sup>

Hume notes, nevertheless, that "There is a maxim very current in the world, which few politicians are willing to avow, but which has been authorized by the practice of all ages, that there is a system of morals calculated for princes, much more free than that which ought to govern private persons."<sup>61</sup> The meaning of this maxim is, according to Hume, that though the morality of princes has the same extent, it has not the same force (or does not oblige as rigorously) as that of private persons. This freer morality of princes is to be explained by the fact that although advantageous and even sometimes necessary, the intercourse of states is neither so necessary nor so advantageous as that of individuals. Since

59. E. H. Carr, *The Twenty Years' Crisis, 1919-1939* (New York: Harper and Row, 1964), p. 146.

60. Hume, *Treatise*, p. 567.

61. *Ibid.*, p. 567.

the mutual interest in abiding by the fundamental rules of justice is weaker, the moral obligation arising from it must partake of this weakness and we must necessarily give greater indulgence to a prince or minister who deceives another than to a private gentleman who breaks his word of honor. "However shocking such a proposition may appear to certain philosophers, 'twill be easy to defend it upon those principles, by which we have accounted for the origin of justice and equity."<sup>62</sup> Today there are more politicians who will openly avow the "freer" morality of princes, and many more philosophers who will support them. These views still deliver a "shock," however, and it is important to question the moral principles that make them "easy to defend."

It is useful to begin by considering Hume's reasons for thinking that in the state of nature there would be neither justice nor injustice. The first of them is that property and promising are practice-defined conceptions. In the state of nature men could possess objects and occupy land. But there could be no such thing as property in the absence of a practice that selects from the many possible rules those that will determine for a particular society when, and even whether, possession and occupancy constitute ownership. Similarly, in the absence of a rule establishing that the performance of some action, or the uttering of certain words, such as, "I promise," constitutes putting oneself under that particular kind of obligation, there could be no such thing as promising. As Hume says, "I assert that in the state of nature, or that imaginary state, which preceded society there be neither justice nor injustice, yet I assert not, that it was allowable, in such a state, to violate the property of others. I only maintain, that there was no such thing as property; and consequently could be no such thing as justice or injustice."<sup>63</sup>

Hume's reasons for thinking that questions of justice do not arise in the state of nature will not even begin to seem plausible unless we accept his view that issues of justice arise only in connection with the practices of property and promising. However, Hume's reasons for confining questions of justice and injustice in this way are weak. According to Hume we are possessed of three species of goods: the internal satisfaction of our minds, the external advantages of our bodies, and, as we have seen, the enjoyment of possessions we have acquired by our industry and good fortune. Hume thinks that society's chief benefit is in securing the sta-

62. *Ibid.*, p. 568.

63. *Ibid.*, p. 501.

bility of possessions because he thinks that even in the state of nature we are “perfectly secure” in the internal satisfaction of our minds and that while the external advantages of our bodies can be ravished from us, they are of no advantage to him who deprives us of them. Even if we think that Hobbes exaggerates the security problems that exist in the state of nature, these remarks will seem excessively naive. At least sometimes the fear of sudden death will rob us of the internal satisfaction of our minds. And there is little doubt that he who controls our body, or deprives us of our life, can gain sexual pleasure, economic advantage, or increased security by doing so. It is for this reason that Hobbes fixed on the problem of security as the central characteristic of the state of nature, and even if we do not accept all Hobbes has to say on this subject there can be little doubt that society benefits us at least as much in securing the internal satisfaction of our minds and the external advantages of our bodies as it does in securing our possessions.

The fact is that questions of justice arise over a much broader range of issues than Hume suggests. Rape, enslavement, and murder are all unjust and would be unjust (or morally unacceptable in some other way) even in the state of nature. Some would say that Hume could accept this amendment because he could argue that the concepts of rape, enslavement, and murder presuppose the same kind of legal and quasi-legal institutions that promising and property do. They would argue that it is only relative to some established legal system that we can say whether, for instance, when A shoots B intending to kill him, but hits C instead, A has committed murder. Consequently, Hume could be expected to reply to our line of criticism that he does not assert that in the state of nature it is permissible to rape, enslave, or murder but only that in such a state there is no such thing as rape, enslavement, or murder and, consequently, no such thing as justice or injustice. But, even if we concede (what is not obvious) that there is no rape, enslavement, or murder in the state of nature, can it be denied that coerced sex, forced labor, and unprovoked and unnecessary killing will be found there? And can it be denied that they will be unjust?

Hume’s second reason for thinking that there is neither justice nor injustice in the state of nature rests on the view that justice and injustice are conventional. They are conventional in the sense that questions of justice arise exclusively in connection with social rules that have been adopted in the expectation of mutual benefit and that are observed in the

expectation of mutual conformity.<sup>64</sup> *Ex hypothesi*, conventions in Hume's sense could not exist in the unsocial state of nature. Even if we waive our previous objections to Hume, and confine our attention to the economic issues with which Hume arbitrarily associates questions of justice, his views will not seem plausible.

It is true that in the absence of our institution of promise keeping it would not be possible to make what is, strictly speaking, a promise. But as Thomas Scanlon argues, even in the state of nature, in the absence of a practice of this sort, it would be possible to get someone to do something by causing him to form an expectation of reciprocal service on some future occasion (help harvest your corn now in the expectation that you will help harvest his corn later).<sup>65</sup> The person who benefits from the first performance is, from a moral point of view, obliged to perform when his turn comes, for there is a natural moral prohibition against intentionally generating expectations that one expects to disappoint or exploit. As the obligation is independent of any linguistic convention establishing the use of the words "I promise," so is it independent of any preexisting "scheme of action" or Humean convention incorporating men's expectations of mutual conformity. Hume's entire project is misguided (in the absence of this natural moral obligation it is difficult to see how the growth of mutual expectations could by themselves yield an obligation) and his specific account of promising is certainly unpersuasive. In any case, as Locke says, "The Promises and Bargains for Truck, etc., between the two Men in the Desert Island, mentioned by Garcilasso De la vega, in his History of Peru, or between a Swiss and an Indian, in the Woods of America, are binding to them, though they are perfectly in a State of Nature, in reference to one another."<sup>66</sup> Similarly, even in the absence of specific rules of property and an established convention of mutual restraint it would be wrong in the state of nature to deprive a man of the land he had cultivated or the corn he had raised, for there is a natural, though not unlimited, moral obligation of noninterference. These obligations are natural in the same sense that the obligation to refrain from

64. David Gauthier, "David Hume, Contractarian," *The Philosophical Review* 88, no. 464 (January 1979): 6.

65. Thomas Scanlon, "Liberty, Contract and Contribution," in *Markets and Morals*, ed. P. Brown and G. Bermant (Washington: Hemisphere Publishing Corp., 1977), pp. 46–51.

66. Locke, *Second Treatise of Government in Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1960), p. 295.

unprovoked and unnecessary assault and killing is natural. Hume's coy evasions about the concepts of property and promising cannot mask the fact that there is justice and injustice in the state of nature.

It is undoubtedly useful to develop a social institution of promising and to elaborate rules of property. Standing rules will promote efficiency, and precision will mitigate conflict and misunderstanding. It would be extremely inconvenient if we had to reinvent a law of property or some rules governing promises every time we wished to bind ourselves or buy something. But we cannot acquiesce in Hume's assumption that whatever system of rules is chosen will qualify as a system of justice. We shall have to judge the rules that inform these conventions, and ultimately the actions of those who invoke them, by the natural moral requirements Hume refuses to acknowledge. Some of these rules will be unjust, and some will be morally flawed in other ways. Thus, a convention of promising that held people to promises even when the promises were coerced would be unjust. This is why the traditional international law of treaties, which regarded peace treaties imposed by victorious powers as valid, could never carry full moral conviction. Similarly, a convention of property that made the exercise of political autonomy impossible would be morally unacceptable. This is why a system of international law that permitted the colonization of people capable of self-government, was morally offensive. These issues often come together, as when a nation agrees to the loss of its territorial integrity or its political independence as a consequence of military defeat.

It has been argued that although these sentiments are superficially attractive, they are in fact indefensible. In the international realm we must accept the validity of treaties agreed to under duress. For, if we refused to accept the validity of treaties ending wars, wars would generally be costlier to both sides and would often not be concluded until the losing side was utterly crushed. The convention conferring validity on such treaties is therefore useful, and its utility justifies it. It should be noted, however, that even traditional writers who accepted this convention were uncomfortable with it and some suggested that the validity of treaties concluded under duress was morally imperfect. Vattel wrote, for instance, that "Although natural law prescribes fidelity to promises as a means of securing the welfare and peace of nations it does not favor oppressors. All of its principles are directed to procuring the greatest good of mankind; that is the great end of all laws, written and unwritten. Shall he who violates all these principles which bind society together be allowed to

invoke the aid of them? . . . when it is sought to preach a doctrine which is contrary to all the instincts of human nature, where shall hearers be found?"<sup>67</sup>

It can be argued that the requirements of utility and of morality are not as far apart as we have suggested them to be. For we have so far considered only the advantageous consequences of a convention upholding the validity of treaties concluded under duress. But we must recognize that a convention of this sort constitutes a permanent inducement to aggression and to blitzkrieg tactics. This tendency must count against the convention's utility. (Besides, the obligation to obey an oppressive treaty is not likely to count very heavily with those in a position to renounce it. For this reason victors will not be able to place great confidence in an agreement of this sort in any case.) At best, then, considerations of utility suggest a compromise between these advantages and disadvantages that would endow treaties concluded under duress with a strictly limited validity. A rule of this sort might facilitate the ending of wars without adding greatly to the attraction of starting them. It is in this spirit that a utilitarian like Sidgwick approaches the problem. This can be seen in his attitude toward a treaty requiring a cession of territory, where the inhabitants formed a genuine community with the nation from which the treaty has cut them off. For he says that the treaty should be taken "to bind the vanquished to no more than a temporary suspension of hostilities, terminable at any time by the wronged state." These are, he observes, precisely the conditions under which the rebellion of "an admittedly oppressed section of a state would generally be judged legitimate, i.e., if the circumstances offer a reasonable chance of success."<sup>68</sup>

In circumstances of this sort Sidgwick seems to be weighing the value of putting treaties on a firm basis very lightly indeed, and it is possible to think that considerations of justice are decisive here. Certainly they will be from a non-utilitarian moral point of view that must always have reservations about a legal rule, or social arrangement, that deprives people of important moral or political rights. Contemporary international law gives unequivocal (and, perhaps, too unmodulated) expression to these moral requirements. According to Article 52 of the Vienna Convention, "A treaty is void if its conclusion has been procured by the threat or use

67. Quoted by H. Lauterpacht in *Private Law Sources and Analogies of International Law* (New York: Longmans, Green and Co., 1927), pp. 163–64.

68. Henry Sidgwick, *The Elements of Politics* (London: Macmillan and Co., 1891), pp. 265–71.

of force in violation of the principles of international law embodied in the Charter of the United Nations.”<sup>69</sup>

Some have attempted to defend a permissive rule of the traditional sort on quite different moral grounds. They argue that in the absence of an effective centralized authority, nations must be allowed to engage in self-help and to secure for themselves the redress of grievances. Furthermore, according to a writer like Hall, since international law cannot measure what is due in a given case, or what is necessary for the protection of a state that declares itself to be in danger, international law must regard all compacts as valid, notwithstanding the use of force and intimidation. Even he, however, excepts treaties which destroy the independence of the state.<sup>70</sup> We may agree with Hall that at least in the pre-League days in which he wrote nations sometimes had a moral obligation to abide by peace treaties that were imposed on them. But it does not follow that this obligation arose from the fact that they had agreed to the treaty. It is more plausible to suggest that it arose, when it did arise, from the fact that the defeated nation had the obligation to make recompense or, perhaps, from the fact that it would now do far more harm than good to wage war over the issue. Any international law that tries to uphold the validity of imposed treaties simply because it has no mechanism for making an authoritative adjudication of the issues involved will be futile and unpersuasive. Certainly its moral foundations will be insecure.

We have claimed that despite their utility in bringing wars to a conclusion, treaties agreed to under duress are morally defective. But can this be correct? After all, the utility of the convention by which individual soldiers are permitted to surrender seems to justify it, despite the fact that, as Michael Walzer says, the agreement to surrender “is usually made under extreme duress,” and “would have no moral consequences at all in time of peace.”<sup>71</sup> The answer lies in the fact that the wrong to which the legal concept of duress gives expression is the illegitimacy of coercion, not the simple fact of coercion.<sup>72</sup>

69. Ian Brownlie, *Basic Documents in International Law* (Oxford: Clarendon Press, 1972), p. 252.

70. W. E. Hall, *A Treatise on International Law*, 7th ed. (Oxford: Clarendon Press, 1917), p. 336.

71. Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, Inc., 1977), p. 46.

72. Charles Fried, *Contract as Promise* (Cambridge, MA: Harvard University Press, 1981), pp. 97–99.

The pressure under which a defeated, but innocent nation signs a treaty of peace has been illegitimately applied; the victim's rights have been violated. But we do not think it is illegitimate to attack a soldier in time of war. We do him no wrong when we place him in the hopeless circumstances that make surrender an attractive alternative. This is why we think that the defeated nation has been subjected to duress and also why we view the terms it has accepted as leaving it worse off. In contrast, the soldier has been made an acceptable offer (on terms which have been established in advance) that improves his position. But again, is this distinction tenable? After all, is it not the case that the terms the defeated nation accepts leave it better off? If not, why would they be accepted? The objection makes clear that we must measure better off and worse off against some baseline. But the appropriate baseline in these cases is the worst position in which the victor has a right to place the loser. If we assume that the victorious army has a right to reduce enemy soldiers to impotence, an offer of surrender improves their position and is not unfair. In the case of aggression, however, the appropriate baseline is the position of the innocent nation prior to attack. By this standard the terms it accepts make it worse off. Agreeing under pressure to terms that violate one's rights, and make one worse off, is agreeing under duress. In this sense the soldier who surrenders does not act under duress, and he has an obligation to conform to a valuable convention whose benefits he has enjoyed. But the defeated nation does agree under duress, and this agreement is defective. When the terms of the agreement deny a nation its territorial integrity and its political independence, there are few indeed who believe that it is bound by its promises. A prince who repudiates such a treaty has our admiration and our moral approval when he can do so without inviting even worse evils.

But Hume suggests that even in the absence of any moral objection to a treaty a prince could renounce it from a more trivial motive than would be required for a private individual to break a promise. Similarly, a prince could violate the territorial rights of another from a more trivial motive than it would take to justify the appropriation of private property. This is the freer morality that according to Hume princes enjoy.

But, surely, Hume cannot think it would be acceptable for a prince to repudiate his obligations under a treaty after the other side had performed, or to violate the territorial rights of others unless self-defense provided the excuse or humanitarian intervention the justification. But these are



not trivial motives, and their analogues have comparable force in private life as well.

As Hume has confused the received conventions of property with rules of justice, so here he appears to have confused the actual practices of princes with a defensible system of international conduct. Given the disreputable standards of the day, this is a surprising line of thought even in so complacent a writer as Hume. In the very year Hume published the Third Book of the *Treatise*, France violated its solemn agreement to the Pragmatic Sanction (an act which, though it seemed in France's self-interest, led inevitably to its loss of empire) and Frederick launched his cynical attack on Silesia. But these acts shocked European opinion and a century later Frederick's conduct elicited from Macaulay the sublime observation: "In order that he might rob a neighbor whom he had promised to defend, black men fought on the coast of Comorondel and red men scalped each other by the Great Lakes in America."<sup>73</sup> The international law of war of our own day—reflecting moral opinion very accurately—presumes that treaties in force must be performed in good faith and it considers wars of aggression criminal.

If we reject Hume's view that princes enjoy a "freer" morality than private persons, we are relieved of the obligation to explain, as Hume thinks we must, why princes enjoy this dubious freedom. Nor are we likely to feel, as Hume does, that his explanation of this alleged freedom lends powerful support to his moral theory as a whole. Hume's claim is that since the rules of justice though useful, are less useful to states than to private persons, they bind states with less force. There are problems with this view, however. Even in Hume's day Rousseau's observation that "we have taken all kinds of precautions against private wars, only to kindle national wars a thousand times more terrible" was probably correct.<sup>74</sup> In the nuclear age it will certainly seem plausible to claim that maintaining peace among nations is more important than maintaining it among individuals. And, as the interdependence theorists have argued, nations have become far more vulnerable to one another in other ways as well. It is not clear, then, that in general nations have less interest in justice than individuals. If their conduct fails to meet private standards of justice there are many possible explanations for this, one of them being

73. Quoted by Mowat, *Public and Private Morality*, p. 59.

74. Rousseau, "Abstract," p. 132.

the widespread belief that states may violate the rules of justice for relatively trivial reasons.

Hume's theory suffers from another defect. He is far from convincing when he argues that establishing rules of justice and conforming to them is, at least in the long run, in everyone's interest. From the individual's point of view it is better still if everyone else conforms while he does not.<sup>75</sup> Private individuals may put themselves in this advantageous position by violating rules while escaping detection. Powerful and unscrupulous states may do the same, and if they are powerful and brazen enough it may not matter to them whether or not their injustices are known. They may openly insist that others obey rules which they themselves violate with impunity. It is even less plausible in the case of such states than it is in the case of private individuals that avidity and self-interest will provide a natural motivation for the sentiment of justice. Justice may not be, or seem to be, in the interest of the stronger, no matter how long the run. If we are to judge by their actions, many strong nations have certainly not thought it was.

We have rejected Hume's view that the morality of princes has less force than that of private persons. And we have done so because in saying that the morality of princes has less "force" Hume means that this morality may be transgressed for a more trivial motive or reason. There is, nevertheless, a strained sense in which the morality of princes may be thought to have less "force" than that of private persons. This is so because in the more Hobbesian circumstances of international politics it will be permissible to transgress the rights of property owners and promisees (to violate boundaries and breach treaties) more often and more extensively than it would be in the circumstances of domestic society. Hume himself would probably have regarded transgressions in the interests of maintaining the balance of power as legitimate. But even those who think that self-defense provides the main ground for such transgressions (and that the balance of power when it is legitimately invoked must be justified on precisely that basis) will concede that the national defense sometimes justifies wars, border crossings, and treaty violations.

We may concede, then, that in the strained sense just considered the duty of princes to respect the rules of justice, of property and promising, may have less force than the private gentleman's obligations in a domestic

75. Barry Stroud, *Hume* (London: Routledge and Kegan Paul, 1977), p. 210.

situation. This is not to concede, however, that we show greater moral “indulgence” to a prince. Self-defense may require him to do what would normally be morally and legally wrong. In this case the prince acts out of tragic necessity, not from a trivial motive. And even when others have forfeited their rights he is permitted to do nothing more than what is necessary. The prince’s obligation to keep promises and respect property may be overridden more often than those of private men, but his obligation to respect the requirements of morality is no less rigorous.

Hume says that though the morality of princes does not have the same force, it has the same extent as that of private persons. He means by this that it protects property and promises. But we have seen that the most plausible account of his own position suggests that property and promises are protected to a lesser extent because in the more Hobbesian circumstances of international politics, self-defense may justify more frequent and more far-reaching invasions of property than Hume could have imagined in the domestic case. Indeed, the international law of his day acknowledged a right to war and to the acquisition of territory by conquest. Even if Hume does not go this far (he does not tell us how far he does go), he may be understood to allow that in international situations the rights of property are less extensive than they are in domestic life.

However that may be, it is clear that international legal regimes are often less extensive than well-developed municipal ones. In a municipal system we will characteristically find strict and enforceable rules governing the possession and use of arms. We will find strict central control over the ability of states and regions to issue currency, raise trade barriers, or control immigration. And we will find a system of taxation that provides at least some support for such public goods as national defense, scientific research, and environmental protection.

The international situation is often markedly different and the regime of legal agreements far less extensive. Arms races are ubiquitous, unregulated trade competitions common, and the provision of international public goods anemic or nonexistent. Hume’s explanation of the freer morality of princes rests on his view that morality is less useful to princes than to private gentlemen. We have already questioned that view, and it is important to show that Hume adopts it because he infers too hastily that if self-interested nations have not entered into arrangements or established conventions, it is not in their interest to do so. But the failure to enter into mutually beneficial relationships may be explained in many

other ways. For instance, the parties involved may not understand the possible benefits of the relationships, as mercantilist princes did not understand the importance of free trade. Even where ignorance, mistake, or misunderstanding are not problems, the interests of those who conduct the affairs of state may not coincide with the collective interests of those they govern. An easy appeal to arms may be in the interest of the eighteenth-century monarch (as Kant said, it may not require “the slightest sacrifice so far as his banquets, hunts, pleasure palaces and court festivals are concerned”), whereas a difficult compromise might be in the interest of his subjects.<sup>76</sup> Similarly, present-day leaders may fail to pursue agreements that would be in the interests of the state because their own political survival depends on taking unaccommodating “nationalistic” positions, which may not serve even the short-term interests of the state. Again, failures may be the result of the simple lack of energy or ingenuity expended in the search for solutions.

Often, however, nations find themselves in situations which, as they view them, display the familiar structure of the prisoner’s dilemma. It may be argued that these situations are falsely perceived and imperfectly understood. Even if this is so, however, a consideration of the prisoner’s dilemma suggests why nations often fail to enter into cooperative arrangements that would be to their mutual advantage. In prisoner’s dilemma situations, agents are faced with two significant choices, a cooperative and a noncooperative one.<sup>77</sup> If both make the noncooperative choice, the outcome is costly to each, roughly to the same degree. If both make the cooperative choice, the outcome is very much in their mutual interest. However, if one makes the cooperative choice while the other does not, the outcome for the latter is far more advantageous than if both had been cooperative, and far worse for the former than if both had refused to cooperate. In these circumstances the rational self-interested agent will always have a “dominating” strategy, a strategy which guarantees that he will be better off no matter what the other does. Unfortunately, in the situations with a structure like that of the noniterated prisoner’s dilemma, the noncooperative strategy is the dominating one and everyone is worse off than he would have been had they cooperated.

76. Kant, “Perpetual Peace,” in *Kant’s Political Writings*, ed. H. Reiss (Cambridge: Cambridge University Press, 1970), p. 100.

77. My discussion of the prisoner’s dilemma in part follows, and in general is much indebted to, Arthur Kuflik’s unpublished essay, “Prisoner’s Dilemma Cases.”

In these Hobbesian situations Humean conventions will not be agreed to even if they are in everyone's interest. Even though it would be in the interest of both to adopt the cooperative strategy and disarm, in the prisoner's dilemma situation the dominating strategy is the noncooperative one and both sides will remain armed. For each will reason that if the other side remains armed, remaining armed is preferable to disarming (and exposing oneself to coercion). If, however, the other side disarms, remaining armed is still the best strategy because it puts one in the controlling position.

A similar situation has often seemed to manifest itself in the trading relations of nations. Thus, it may be thought that no matter what other nations do, it will be to the advantage of a trading nation to raise its tariffs and quotas, subsidize its exports, and devalue its currency. If others impose quotas the best strategy is to impose one's own. If, on the other hand, others fail to impose quotas it is still to one's advantage. Since this reasoning is the same for everyone, everyone will raise quotas. This will adversely affect the quantity of world trade and the efficiency of world production and everyone will be worse off.<sup>78</sup>

The noncooperative solution also seems to dominate in many situations in which the provision of public goods is in question. (They are multi-person prisoner's dilemmas.)<sup>79</sup> Therefore, less of the good is provided than it would be in everyone's interest to have. This is an acute problem in an increasingly interdependent world in which many important goods are at least in part collective or public goods, that is, goods which if produced are available to all. Pollution control, scientific knowledge, international organizations, and the provision of security all possess this characteristic to some degree. But rationally self-interested nations often fail to produce these goods (or fail to produce them in optimal amounts) because they reason that not producing (or not producing more than will benefit them if others fail to contribute) is the dominating strategy. If others produce the good they can, because of the nonexclusive nature of the good, have a "free ride." On the other hand, if others do not produce the good, their own expenditures will be a waste (beyond the point at which others' contributions would be required to make them worthwhile).

78. W. J. Baumol, *Welfare Economics and the Theory of the State* (Cambridge: Harvard University Press, 1965), pp. 142–47.

79. Russell Hardin, "Collective Action as an Agreeable n-Prisoners' Dilemma," *Behavioral Science* 16 (1971): 472–81.

The rationality of following the noncooperative strategy in each of these cases depends on several assumptions, one of which is that the parties cannot conclude enforceable agreements that would substitute for the mutual trust they do not enjoy. If they could make such agreements it would become possible for rationally self-interested agents to follow cooperative strategies. For potential noncooperators could be deterred by threats of punishment sufficiently heavy to outweigh the benefits of double-crossing. It would then become rational for everyone to pursue a cooperative strategy. This is precisely the benefit the Hobbesian sovereign provides. Because some analogue of the Hobbesian sovereign exists in most well-ordered domestic societies they do not face internal arms races, regional trade wars, or, to anything like the degree we experience it in international society, the inadequate provision of public goods.

But even in the absence of world government it is possible to mitigate some of these problems. Consider the world situation in the postwar years. In the absence of world government, a form of authority neither side could accept, the possibility of disarming was slight. However, with the advent of nuclear weapons a new situation was created. The alternatives were now whether to pursue the noncooperative strategy of seeking a first-strike capacity or pursuing the cooperative one of developing an invulnerable second-strike force. In this new situation, however, each superpower was invested with an attribute of Hobbesian sovereignty. With its second-strike capacity it could visit a sufficient punishment on a first strike to deter it, and a troubled peace was therefore established. At the same time, however, the residual fear of escalation gave the superpowers the capacity to deter not only a first nuclear strike but anything, including conventional war, that risked precipitating one. The European political situation was frozen in a way that deprived the Czechs and the Hungarians of their fundamental freedoms and the support of their moral friends. The more reliable the "convention" of nuclear-backed, superpower spheres of domination, the more anguishing it becomes from a moral point of view. We can no more identify the conventions of superpower domination with a morally satisfactory international order than we can identify the most iniquitous command of a Hobbesian sovereign with justice. (This is not to say that it would now be prudent, or on balance morally desirable, to try altering the situation in any fundamental way.) As Nietzsche said, it was not doubt, but certainty that drove Hamlet mad. And there are circumstances in which the only thing worse than unre-

liability is reliability. The reliability of Soviet oppression in Poland is one of them. Each Humean convention must be judged on its own moral merits.

Some of them are, of course, commendable. The postwar allies were able to free themselves from the trade wars and beggar-thy-neighbor economic policies of the thirties which American leadership, especially, thought largely responsible for World War II. The wartime alliance created a new spirit of trust and cooperation that found legal expression in such institutions as the IMF and the GATT. These institutions established rules concerning monetary exchange and international trade and imposed penalties for their violation. These penalties, reinforced by memories of the world depression and the threat of Soviet domination, constituted enormous threats to noncooperators. At the same time, the promise of a more general prosperity, as well as the American willingness to accept rising Japanese imports and European trade discrimination, while continuing to hold out a security "umbrella," provided handsome inducements to cooperate. The Western powers escaped from their trade dilemma, although more recently it has become clear that Hume's tacit assumption that conventions which work out to everyone's advantage are just is very much under attack. The Europeans increasingly resent as unfair America's ability to export "negative externalities" such as high interest rates and economic recessions. The more general terms of world trade, often defended on the Humean ground that they are mutually beneficial (and leave everyone better off than he would be in the state of nature) are under much fiercer attack. *Dependencia* theorists think that the rhetoricians of interdependence fail, as Hume failed, to confront the central issue of economic justice, the fair division of mutual benefits.

The adequate provision of public goods in the absence of international institutions that have the power of taxation remains an acute problem. Often such goods are provided by the great powers in the form of scientific knowledge, support for international institutions, and the provision of security. Some will argue that great nations produce these goods only to the extent that it is in their interest to do so. I do not share this skeptical view and expect that if such goods are to be provided in the near future they will be provided by the most privileged nations as they exert their moral and political leadership.<sup>80</sup> As Derek Parfit has written, moral so-

80. Kenneth N. Waltz, *Theory of International Relations* (Reading, MA: Addison-Wesley Publishing Co., 1979), pp. 198ff.

lutions to prisoner's dilemmas are often the only ones possible.<sup>81</sup> We can, however, expect acute problems of justice to arise in connection with the provision of some public goods. Mancur Olson has pointed to what he calls the surprising tendency for the small to "exploit" the great. For, "once a smaller member has the amount of the collective good he gets free from the largest member, he has more than he would have purchased himself, and has no incentive to obtain any of the collective good at his own expense."<sup>82</sup> Some have felt that in providing the public good of its nuclear umbrella and military forces to NATO, the U.S. has experienced this kind of exploitation. This is not an issue to pursue here but it makes plain, again, that mutually advantageous agreements may not be fair.

We have observed that Hume attributes the freer nature of international morality to the fact that it is less important, less a matter of mutual self-interest, than interpersonal morality. We have seen, however, that there are many other explanations for the more limited reach of the international "system of justice," in particular the absence of a Hobbesian sovereign or of other mechanisms and conventions that make expectations of mutual conformity reasonable. John Mackie, who has previously made this objection to Hume's explanation of the freer morality of international relations, writes that in noting this "we do not undermine but rather strengthen [Hume's] point that the state of affairs reveals some implicit understanding of the conventional basis of morality, for it is precisely this conventional structure that is weaker in the international field."<sup>83</sup>

But this argument is, in turn, unacceptable. We have already argued that morality exists in the state of nature. To be sure, some obligations obtain only in the presence of conventions, which underwrite expectations of mutual reliability. But this shows, at best, that morality is relative to circumstances and that moral requirements often presuppose the existence of conventions. It is far from showing that the "basis of morality" is itself conventional in the sense Hume intends. As we have repeatedly seen, it is often necessary to judge the morality of Humean "conventions" and "rules of justice" themselves. This is an especially important consideration in the international case. For the rough equality of men that

81. Derek Parfit, "Prudence, Morality and the Prisoner's Dilemma," in *Proceedings of the British Academy for 1979* (London: Oxford University Press, 1981), p. 546.

82. Mancur Olson, Jr., *The Logic of Collective Action* (Cambridge, MA: Harvard University Press, 1965), p. 35.

83. J. L. Mackie, *Hume's Moral Theory* (London: Routledge and Kegan Paul, 1980), p.



gives some plausibility to Hume's suggestion that what they agree to are "rules of justice" has no plausibility at all in the case of nations.

Indeed, one of the most conspicuous reasons for the "freer" morality of nations is that this freer morality is in the interest of the strong. Hume does not consider this possible explanation in his remarks on the morality of nations. But the idea has not escaped him altogether:

Were there a species of creatures intermingled with men, which, though rational, were possessed of such inferior strength, both of body and mind, that they were incapable of all resistance, and could never . . . make us feel the effects of their resentments; the necessary consequence . . . is that we should be bound by the laws of humanity to give gentle usage to these creatures, but should not . . . lie under any restraint of justice with regard to them, nor could they possess any right or property, . . . the restraints of justice and property, being totally *useless*, would never have place in so unequal a confederacy.<sup>84</sup>

However it may be with "the laws of humanity," an adequate philosophy of justice for nations cannot be established on Humean principles. Strong princes have demonstrated this more often than great philosophers have understood it.

84. Hume, *Enquiry*, 2d ed., ed. L. A. Selby-Bigge (Oxford: Clarendon Press, 1902), p. 190.