

Ethics, Liberalism and Realism in International Relations

Mark D. Gismondi

Routledge Advances in International Relations and
Global Politics

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Both of the leading theories of international relations, liberalism and realism, suffer from an inability to integrate the ethical and pragmatic dimensions of foreign policy. Liberalism's inability to articulate a coherent theory of a common human good raises serious questions about the claims of liberal leaders to act in the interests of law and justice on the world stage. In contrast, realist thinkers have struggled with questions of ethics in ways that reflect their deep awareness of the tragic nature of politics. However, they have also underestimated the potential for statecraft to exist as a moral enterprise at the international level.

This book argues that the liberal theory of social contract should be replaced with one based upon covenant. The covenant paradigm affirms the realist position that no form of political community, liberal or otherwise, can ever rid itself of the potential for tyranny and imperialism. Covenantal thought also draws on Tocqueville's observation that the contractual society, meaning one rooted in a materialistic, narrow view of self-interest, cannot survive for long as a vibrant democratic society. In contrast, effective covenantal arrangements throughout history reflect our ability to create moral commitments that sustain the variety of social and political networks that Tocqueville believed were so important to human flourishing.

Ethics, Liberalism and Realism in International Relations will be of particular interest to students and researchers of international relations theory, political philosophy and foreign policy.

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First published 2008
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

Simultaneously published in the USA and Canada
by Routledge
270 Madison Ave, New York, NY 10016

This edition published in the Taylor & Francis e-Library, 2007.

“To purchase your own copy of this or any of Taylor & Francis or Routledge’s collection of thousands of eBooks please go to www.eBookstore.tandf.co.uk.”

Routledge is an imprint of the Taylor & Francis Group, an informa business

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British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Library of Congress Cataloging in Publication Data

A catalog record for this book has been requested

ISBN 0-203-93993-X Master e-book ISBN

ISBN10: 0-415-77237-0 (hbk)

ISBN10: 0-203-93993-X (ebk)

ISBN13: 978-0-415-77237-2 (hbk)

ISBN13: 978-0-203-93993-2 (ebk)

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Acknowledgments

A number of people contributed significantly to this project, which began as a dissertation and has been through several incarnations since then. I would like to thank my chair, Greg Russell, for his tireless efforts on my behalf. He devoted a great deal of time and effort to this work, and read it more times than anyone should ever have to. Greg also contributed greatly to my understanding of the moral dilemmas that are abundant in politics, and in international affairs most of all. I would also like to thank Don Maletz, whose comments, advice, and encouragement were invaluable. I have always considered it a privilege to have had the benefit of his insights and instruction. I also have him to thank for furthering my understanding of the pleasures of philosophy. Robert H. Cox helped me to see the dangers of abandoning substance for procedure in the policy process, and gave me some very practical insights into shared values as they appear in the everyday politics of Europe. A number of other individuals contributed to the further development of the project, including panel discussants and audience members from both ends of the political spectrum. Three anonymous reviewers read several chapters of the manuscript and offered criticism and suggestions that have proven to be invaluable as well. Of course, all errors remain my own responsibility.

I also want to thank C. Mattei and my assistant K. Winn for their efforts in making the task of completing this project much easier, and my editors at Routledge, Heidi Bagtazo, Harriet Brinton, and Amelia McLaurin. Finally, I want to thank my wife Tamara (ever an example of *makrothymia*) and the rest of *la famiglia* Gismondi for their support as this project was under way, and my parents in particular who helped me to understand the nature of covenants through the example of their lives.

A portion of Chapter 5 appears in Mark D. Gismondi, "Tragedy, realism, and postmodernity: *Kulturpessimismus* in the theories of E. H. Carr, Hans J. Morgenthau, and Henry Kissinger," *Diplomacy and Statecraft*, vol. 15, no. 2 (September 2004), pp. 435–63. Reprinted with the permission of Taylor & Francis.

Introduction

In the Spring 1986 issue of *Foreign Affairs*, an article appeared entitled “Gorbachev and the Third World.” Its author, Francis Fukuyama, was a little known foreign policy analyst who had worked for the US State Department and was then serving as a professor of political science at the Rand Corporation. Fukuyama’s thesis was that the Soviets, then under the leadership of Mikhail Gorbachev, were less and less willing to bear the costs of maintaining their alliances in the Third World. Some Soviet scholars argued that Gorbachev’s new approach to foreign policy would allow the USSR to consolidate its power, a view shared by Fukuyama. But he also believed the shift in policy represented something much larger. In the 1970s, the USSR appeared quite strong, an image reinforced by a number of significant achievements in Soviet foreign policy and the enthusiasm of “young radicals in the Third World – the latter being virtually the only people in the world who still seemed to believe in this moribund ideology.”¹ However, these successes masked a “dark side,” one recognized by Soviet leaders who came to power after Brezhnev’s death in 1982.² The Soviet economy was faltering while the cost of supporting third world allies was increasing. Soviet leaders like Yuri Andropov harked back to earlier interpretations of Marxism, arguing that many Soviet allies had moved toward socialism before their economies were in a position to make such a transformation successful. Gorbachev’s approach was designed to counter these trends, but Fukuyama argued that it would be an uphill battle. In addition, these weaknesses afforded the United States with significant opportunities to use political and diplomatic means to increase pressures on the USSR to spend more resources on maintaining their existing commitments. Doing so would contribute further to the difficulties the Soviets faced in the realm of foreign policy.³

Three years later, Fukuyama’s now famous article in *The National Interest*, “The end of history,” proclaimed the ideological victory of liberalism over all other alternative theories of politics.⁴ Only a few months after the publication of the article, the extent of the Soviets’ economic problems and the magnitude of the shift in foreign policy he had observed in 1986 became much clearer. In contrast to the response of previous Soviet leaders to instances of political unrest in Eastern Europe, Gorbachev was unwilling to

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use force to maintain Soviet control of that region. Fukuyama's thesis seemed to be further supported by the complete collapse of the Soviet Union itself in 1991 and Gorbachev's subsequent career change from leading the Soviet Union to engaging in environmental activism and appearing in pizza commercials.

There were a number of other events that gave credence to the notion that the evolution of political history had reached its final destination. In 1990, the United Nations, an institution ostensibly developed in accordance with liberal principles of procedural democracy and the rule of law, gained significant credibility when the Security Council was able to agree on resolution 678 authorizing member states to counter Iraqi aggression in Kuwait. Germany's reunification on a broadly liberal basis in 1990 was the final chapter in a century-old struggle to integrate Germany as a whole into a peaceful European system. The idea of "Europe" itself had made considerable progress, moving from a common policy on coal and steel to what would become in 1992 a union of peaceful, democratic, rights-oriented states committed to pursuing comparatively liberal economic policies as well in the areas of markets, finance, and labor. Outside of Europe, apartheid collapsed in South Africa, and South American states experienced peaceful political transitions from one elected leader to another (an important indicator of democratic consolidation) following decades of instability and control by military dictatorships. Many governments also instituted neoliberal economic policies, hoping to take advantage of the theories of development many of their economists had studied in the United States or other Western countries years earlier. In 1990, Chilean dictator Augusto Pinochet gave up power to a democratic government, and spent the remaining sixteen years of his life fighting to stay out of prison. A year earlier Chinese students had demonstrated in Tiananmen Square, albeit unsuccessfully, while CNN broadcast pictures of demonstrators erecting a version of Lady Liberty, knowing the image would be seen all over the world. A list of the most inspiring photos of the twentieth century would have to include the unknown figure standing defiantly in front of an approaching tank, a visual summation of truth speaking to power.

There were parts of the world still mired in History, as Fukuyama used that term. Existing oppression remained and would be likely to continue into the foreseeable future in the realm of praxis, but those instances did not detract from the fact that liberalism as an *idea*, in the Hegelian sense, was the end point of the evolution of political theory. However, Fukuyama had it backwards. The optimism produced by the events listed above, most of which were, to be sure, reasons for celebration, masked significant fissures within liberal ideology. If anything, liberal praxis, represented by these monumental changes, served to paper over the internal contradictions within liberal theory.

Of course, there was no lack of critics of liberalism, particularly outside the US. Marxists and critical theorists remained a powerful voice within

academia, but apart from some activist groups, journals, and university classrooms, their influence was limited. There were also suspicions, some of them warranted, that they had been on the wrong side of the argument all along, maintaining well into the 1980s the superiority of the Soviet version of communism for average workers when there was significant evidence to the contrary, not least of which was the treatment of independent unions in Eastern Europe. As a result, even reasonable warnings regarding the dangers of triumphalism and the potential consequences of instituting major policy changes overnight were ignored. Nor did it help matters that China, the most powerful communist state apart from the USSR, had apparently abandoned communism for a version of state capitalism, one that was beginning to provide fewer benefits for workers than they would receive in capitalist states in the West.

As it happened, liberalism's greatest point of vulnerability was not its inability to defend itself from Marx, whose reputation had been damaged by the events of 1989, but from Friedrich Nietzsche. Ironically, nowhere was this weakness clearer than in the second half of Fukuyama's own paean to liberalism, *The End of History and the Last Man*, a book dedicated to defending the same thesis as his 1989 article.⁵ In the latter half of the book, Fukuyama confronts the problem of Nietzsche's "last man," the contemptible creature concerned only with material comforts and security. Fukuyama likens the last man to the self-interested individual of "Anglo-Saxon" liberalism, meaning the version developed by Locke, and argues that liberal critics are correct to say that this sort of liberalism is not sustainable. Reason of the kind developed by liberal last men is purely instrumental, a servant to the appetites. In the form of science, it can produce a broad variety of consumer goods to satisfy our desires. What it cannot produce is a defense of its own value or the value of an open society that places a premium on freedom. Given his antipathy toward the "Anglo-Saxon" version of liberalism, and the meaning that phrase holds for many continental Europeans, the claims by many of Fukuyama's critics that he was promoting Americanism as the end of history are both puzzling and revealing.

Fukuyama was in large part repeating the arguments of one of his mentors, Allan Bloom, and Bloom's own source of inspiration, Leo Strauss, both of whom were dubious about the prospects of liberalism. In his controversial work *The Closing of the American Mind* (1987), Bloom argued that contemporary liberalism is fraught with internal contradictions; it cannot account for itself as anything apart from a choice based upon a form of Nietzschean existential assertiveness. In sum, liberalism in its present form is incapable of answering Nietzsche's challenge. Of course, non-Straussians have made similar arguments, most notably Alasdair MacIntyre. In *After Virtue* (1981), MacIntyre argued that liberalism was a contingent tradition masquerading as universal truth. For MacIntyre, the incoherence of contemporary liberal discourse was the result of the failure of liberals to develop a genuinely rational ethical theory. Once again, liberals could not

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answer Nietzsche, who insisted on asking embarrassing questions regarding how it was that neutral, rational principles could lead to concrete, substantive ethical outcomes.

Critiques of liberalism from both ends of the political spectrum are abundant, to be sure. However, most of them emphasize liberal political theory at the domestic level. For over 300 years, liberalism has also served as a comprehensive theoretical framework for understanding issues of international politics and ethics. At the same time, liberalism has been reshaped in radical ways, making it distinctive from its earlier seventeenth century form. Despite these changes, the language used to describe the normative dimensions of policy continues to be broadly liberal in nature. No political leader can plausibly speak like a nineteenth century practitioner of *realpolitik*, and even the most oppressive of regimes make ethical justifications for policy decisions that sound vaguely liberal. In the field of international relations theory, liberalism is often viewed as the ethical alternative to an ostensibly amoral realism. Yet this dichotomy obscures two important points. First, the alleged amorality of realism is a caricature at best. Realists have argued forcefully that the *ends* of realist policy are in fact profoundly moral and not significantly different from those sought by liberals. Second, contemporary liberal international relations theory is just as afflicted by internal conflict and confusion over matters of ethics as its domestic counterpart. Though conflicts at both levels have their origins in similar sources, their effects are likely to be more consequential in the anarchic arena of international statecraft.

Early in the nineteenth century, the epistemological assumptions that gave rise to liberalism were discarded, a fact which has had profound implications on the ability of its advocates to speak meaningfully to issues of ethics. As Joel Rosenthal has noted, a viable theory of international ethics must be able to navigate a path between the extremes of relativism and an inflexible absolutism.⁶ It must account for the contextual nature of rule-application (without falling into relativism) while maintaining a meaningful role for moral obligations. Liberals and realists alike claim that their respective theories have succeeded in achieving these goals. On closer examination, however, it appears that neither theory has done so. Liberal policy-makers have often suffered from moral blindness and an attraction to hierarchical methods of problem-solving, which in turn have led to liberal imperialism and ethical confusion. Realism has fared no better. Like liberalism, realist theory suffers from a breach between its epistemology and its ethics, though on the whole, realists have been much more self-conscious and philosophically honest than liberals about the existence and implications of this breach. Several of the most philosophically sophisticated and intellectually consistent realist thinkers, such as Hans Morgenthau and E. H. Carr, have written on the problem of bridging the tragic gap between knowledge and moral aspirations. However, the consequences of this breach in realist thought have been less severe than is the case with liberalism. The conflict between

realism and liberalism is largely a post-World War I phenomenon that has taken place in the West where liberal and democratic regimes have had greater normative legitimacy than other forms of governance.⁷ Thus in the realm of policy-making, realism has served as a kind of corrective to liberalism rather than an independent theory. Indeed, the gap between these two theories diminishes significantly in the realm of praxis. One struggles to find an example of liberal policy-makers who do not consider the distribution of capabilities, but are motivated solely by lofty ideals. Liberal polities are perfectly capable of relying upon the balance of power and narrow “high politics” conceptions of interest in the process of making foreign policy. They are also capable of ignoring international agreements and commitments when their interests are threatened, and allowing humanitarian catastrophes to unfold with very little concern for those affected by such events. The response of the US and European states to the Rwanda crisis is a good example of this. Nor does a liberal perspective on economics prevent rich states from maintaining their protections on agricultural commodities. This lapse in the exercise of comparative advantage is all the more striking when its elimination would almost certainly do more to lift many developing states out of poverty than anything else. In light of the liberal view that growing economies make democratic transitions more likely to succeed, and that democracies are peaceful toward one another, these protections prove all the more astonishing. Policy-makers normally enamored with the thought of Smith and Ricardo suddenly find the economic realism of Friedrich List to be much more attractive.

The normative dimensions of the two views are also much more similar than is often suggested by liberal critics.⁸ The caricature of realists as heartless, cynical, and amoral is just that, an egregious misrepresentation of their ethical perspectives. In fact, despite their empirical differences, liberals and contemporary realists are united by a commitment to a type of practical humanism. For liberals, this humanism generally entails assumptions about the dignity of humanity and beliefs about rights, found in documents like the French Declaration of the Rights of Man, the US Constitution, the Universal Declaration of Human Rights, or in the deontological principles of Kantian ethics. Ideally, human dignity would be recognized and protected by an effective system of international laws maintained and supported by international institutions and states accountable to those institutions for their behavior. For realists these principles are laudable but distant goals; they are likely to be achieved only by states in the context of security maintained by balancing power, rather than by international institutions that will inevitably suffer from the same problems posed by collective security arrangements.

In the chapters that follow, I shall argue that liberalism and realism both suffer from an inability to integrate the ethical and pragmatic dimensions of foreign policy. However, contrary to most critical accounts of these two primary paradigms, I shall argue that the flaws in both theories arise from

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the same source, the Enlightenment separation between ethics and epistemology. During the early Enlightenment, classical liberals rendered politics rational by an appeal to interests, considered within the context of natural law. In many ways, their arguments were similar to those made by theologians who preceded them, particularly in the covenant theology tradition. This is not surprising, since classical liberal theory contained a synthesis of ethics and interests that sought to secularize and universalize the ethical traditions of covenantal thought. Spiritually, the covenant was a key component of medieval and reformational soteriology. Jerome's Latin *Vulgate* translation of the Septuagint's Greek *diatheke* (covenant) was *foedus*, itself a translation of the Hebrew *b'rit*.⁹ From this word is derived the English words "faith" and (not coincidentally) "federal". Covenant emphasized a voluntary agreement to join a community made up of persons who believed it was in their interests (theologically speaking) to seek common spiritual and moral, and later political, objectives. These agreements contained both explicit and implicit components. In many cases, one committed oneself to a specific confessional statement, yet the purpose of the statement was not to serve as a contractual document in which obligations were understood in very narrow terms. One's obligations to other members of the community were significant, emphasizing the spirit rather than the letter of the law. At the same time, covenantal theology recognized the need for there to be limits on the claims communities could make. As a result, covenantal doctrines emphasized the multiplicity of spheres of human activity. Members were individuals, as well as members of families, churches, and communities.

Covenant was the element of social theory that linked the Reformation and the early period of liberalism. Moving from spiritual covenant to the political and social contract of early liberalism was not a difficult transition to make, particularly for thinkers interested in arguing against absolutist views of political authority defended by appeals to religious doctrines. The transformation of covenant in the English and Scottish Enlightenment in particular, from a tradition arising in contingent circumstances to a universal political theory, had tremendous consequences for ethics. As MacIntyre has noted, the fundamental tenet of Enlightenment thought, that tradition should give way to reason, set political theorists upon a search for the holy grail of ethics: a foundation for ethics not tied to any particular tradition, but rather arising wholly from reason itself.¹⁰ Early liberals succeeded in this project, or so they thought, but only by undoing the synthesis of obligations and interests they had inherited from the covenantal tradition. An appeal to natural law, arising from natural theology, mitigated the effects of this change. Over time, however, obligations and interests were further separated through the removal of natural law by later liberal thinkers, an act which led political ethics in two profoundly different directions.¹¹ The appeal to interests was strengthened and narrowed in scope over time by "Anglo-Saxon," utilitarian liberals in order to make liberalism as rational as possible; this

rationality, however, was of the sort described by Max Weber as instrumental. With regard to ends, liberals increasingly came to believe that reason could have little to say, since ends were determined by sentiments or passions. Just as important, and related to the move toward instrumental rationality, I shall argue, is the way in which liberals shifted questions about the good from the realm of politics to that of economics and society, a transition that would lead to an increase in liberty. At the same time, they maintained that the collective effect of individual actors pursuing their own self-interest would maintain the social order, a belief that became more and more difficult to uphold over time. Liberals responded to this difficulty by emphasizing the importance of education of the citizenry as to what these interests were, which in turn required educators to have knowledge not readily available to the public as a whole. The belief that deliberation and study could lead to a better understanding of collective goods is not by itself problematic. What is troubling is the way in which public concerns were privatized by this shift from politics to society. As Gramsci and Foucault understood, this did not mean that the legislation and enforcement of values had been laid aside by elites. Instead, while proclaiming that the state was neutral regarding values, liberal elites would continue to make decisions about which values were important and how they should be maintained. At the domestic level, the consequences of this shift were somewhat limited by the fact that liberal states increased the potential for non-elites to participate in policy-making. At the international level, where this was not the case, and where political leaders and intellectuals considered the gap between enlightened and ordinary opinions to be enormous, the consequences would be far more severe.

During the transitional period between the Reformation and the Enlightenment, political ethics followed the path of the philosophy of science. This development is not surprising given the powerful influence of Newtonian thought on the intellectual movements of the day. Isaac Newton's work served as a model of what social theory ought to look like: parsimonious, devoid of attachments to tradition or theology, and providing principles that were empirically demonstrable. Of course, reading Newton in this way, as most Enlightenment figures did (Kant in particular), required the willful distortion of his views. This alteration of Newton into Newtonianism was extraordinarily successful and has only begun to be reversed in recent decades. Indeed, the revival of interest in Newton himself has (coincidentally) occurred roughly in parallel with the revival of covenantal thought. This is not surprising, since an appreciation of both subjects requires us to leave philosophy behind, at least temporarily, in order to survey the landscape of intellectual history, itself a very Newtonian approach. I believe this to be a woefully underappreciated part of the story of the Enlightenment and the evolution of liberalism. Certainly Newton's influence on philosophy, and epistemology in particular, is well-covered ground. However, the parallels between the mechanization of Newton's work and the separation of a

liberal understanding of ethics from its historical context are less well understood. To the degree that this separation is acknowledged, the focus has been on philosophy rather than intellectual history more broadly conceived in its social context. This is unfortunate for two reasons. First, Newton profoundly influenced thinkers in different philosophical traditions. His ostensible empiricism and logic (in the form of a mathematics not well understood) were very attractive to liberals in the UK and to Kant, figures who otherwise had little in common. Second, the alterations that occurred in thinking about the nature of a truly Newtonian approach to science and liberalism both occurred as a result of the Enlightenment project, which John Gray has described as the “displacement of local, customary or traditional moralities, and of all forms of transcendental faith, by a critical or rational morality, which was projected as the basis of a universal civilization.”¹² While the Enlightenment narrative required much sweeping of Newton’s attachments to the arational under the epistemic rug, it is increasingly clear that to believe gravity was “out there” for Newton or anyone else with the proper empirical mental equipment to see is an extraordinarily naïve view of how science proceeds. Yet this wildly optimistic view of empiricism lasted for centuries and in many ways defined scientific activity. It was also largely responsible for the rise of the now discredited metaphor of war between science and religion. More importantly, this empiricist optimism also existed in considerations of liberal ethics in the form of what Thomas Spragens has termed “moral Newtonianism,” or the belief that moral precepts should be as clear to the careful observer as the laws of physics.¹³ Here again we find another important parallel between science and ethics. Hume’s critique of induction shook empiricist epistemology to its foundations. Kant, recognizing the challenge Hume presented to science, responded by turning epistemology inward. Kant recognized that empiricist ethics were untenable for the same reason. He answered this apparent aporia by, as Spragens puts it, conceding “the whole exterior world to Cartesian *res extensa* ontologically and to Humean heteronomy behaviorally.”¹⁴

To many thinkers on the Continent, the Anglo-Saxon understanding of reason and ethics lacked transcendence of any kind and had all the aesthetic attractiveness of a nineteenth century British industrial town. In response to the instrumental conception of political ethics, German thinkers in particular turned to an ethic of transcendence, one that denied a role for interests. Kant is the most important of these thinkers because his solution to the problem of uniting ethics and interests, and the role epistemology played in that solution, had a significant effect on many later theorists, realist and liberal. While Kant provided a transcendent basis for morality, his mature theory of ethics left little room for classical virtue or prudential considerations of the kind necessary to guide the ship of state successfully. Even so, he made it quite clear in his writings on the future of international politics that it would not be morality or virtue that led to perpetual peace, but interest-based calculations which were denied any moral status. In addition, many

German thinkers and their realist intellectual descendants influenced by Kant came to the conclusion that moral considerations were personal matters. In contrast, politics was the realm of the diabolical in which, tragically, achieving good might require doing evil. In sum, his theory led many German philosophers to separate ethics from politics altogether.

Liberals disenchanted with utilitarianism eventually adopted much of Kant's philosophy as well, especially his ethics. Particularly in recent decades, Kantian thought has been the most common source of ethical theorizing among liberal thinkers. His influence on liberal ethics at the international level has also been quite profound. But Kant's thought, as it influenced international thinkers, presented serious challenges for liberals wishing to develop a coherent international ethic. Here again, Kant's separation of virtue and ethics, a move predicated upon his own understanding of the relationship between freedom and morality, proved quite troubling.¹⁵ The same inflexibility that caused realists to argue that transcendent Kantian morality was inappropriate for politics led to a different kind of problem for liberals. On the surface there was far more room for Kantian ethics in liberalism, since deontological principles can easily be transformed into the universal, neutral principles common to international law. However, over time, it became clearer that the ostensible neutrality of international law or of deontological ethical formulations in international ethics was illusory. There was simply no way to create and apply a set of principles that did not favor some material, arational (in the Kantian sense) conception of the good. On the level of theory, these problems have eroded the credibility of the Kantian approach; in the world of politics, in which principle intersects with power and the ability to coerce, they have had far more significant consequences.

There is one critical difference between the effects the Enlightenment project had on science versus its effects on ethics. While the misunderstanding or distortion of Newton has had few effects on the course of science as a *practice*, the virtues of which are more or less clear, this cannot be said of ethics, in which the nature of the virtues, again understood in practical terms, have been subject to a much more intense debate. The same can be said of politics, where misunderstandings and distortions can have globally significant consequences. The universalist character of the shift from liberalism as a tradition evolving out of covenant, to liberalism as the embodiment of rationality, anticipated both the best and worst of what was to become late liberal political ethics. In one sense, liberal universalism reflected a hopeful expectation that the commonalities of human societies could transcend cultural differences and serve as the basis for a global ethic of peace and justice. Yet that universalism also became the basis for moral justifications of liberal imperialism, a fact only made worse by the absence of the voluntarist element of the covenantal tradition. Discussing or debating the merits of one's tradition, which one believes has universal applicability, with others who are free to accept it or reject it, is one thing. Even forcing a

tradition on a colonial population can at least be seen for what it is: an act of coercion. It is another thing altogether to define the precepts of one's tradition as consonant with reason itself, and then compel a subjugated population not only to obey these precepts but also to agree to their status as reasonable. This is the logic of the gulag, and hardly a promising theoretical foundation for a free society.

The goals of peace, justice, inclusiveness, and liberty are laudable and worthwhile. However, if liberalism is to provide the basis for a viable ethics of statecraft, it must do so on a broadly reconstructed basis. Thomas Kuhn describes the process of normal science as being done within largely assumed presuppositions of a paradigm.¹⁶ Only when the process of normal science fails, when inexplicable anomalies occur again and again, do we awaken from our dogmatic slumbers and question our most basic assumptions.¹⁷ These questions should ideally lead us to develop a new paradigm or "grammar" that accounts for these anomalies and allows us to return to doing normal science. In this volume, I shall attempt to construct a grammar of political ethics rooted in the idea of covenant, a very common concept found implicitly or explicitly in almost every sphere of human activity. Covenant revives a way of thinking about human relationships that has, in fact, been in existence for millennia.

Broadly speaking, a covenant is simply an agreement between parties to be bound to each other in a manner prescribed by the agreement. First, in the context of politics, the term "covenant" has been used to unite three disparate areas of inquiry that bring together concerns for universal standards and localized, participatory governance. Covenants emphasize moral obligations in the context of community. Because of this, covenantal thought recognizes that every political agreement, tacit or explicit, and every institution and policy that arises from that agreement, is morally charged. It is thus distinguished from contractual theories that tend to focus on the state as a kind of neutral referee between autonomous individuals. The latter would include the neoliberal model of the individual as a calculative and stateless consumer of public or private goods. Second, the term has been used in international jurisprudence to describe important legal conventions that contribute to a cosmopolitan view of rights and obligations. Finally, the term has an etymological connection to federalism, which is an important structural element of this paradigm, as it mediates the relationship between the particular and the universal, or in more political terms, the communitarian and the cosmopolitan aspects of political life.

The practice of creating pacts under which parties, public or private, agree to be governed is found in some form in every period of human history and in every region of the world. Pacts have been used to solemnify cooperative arrangements made by individuals, families, communities, and states, and remarkably, they have often been quite effective, even in circumstances where third party enforcement was not available. For example, the foundational maxim of international law is *pacta sunt servanda*: nations ought to

keep their agreements. Despite the fact that no world-state exists to enforce compliance, states tend to adhere to their agreements more often than not, though this tendency is considerably more reliable in some areas of law than in others.¹⁸

One also sees this principle at work at the domestic level throughout history, from Socrates' recognition of his tacit agreement to support Athens even at the cost of his own life, to the provisions regarding agreements found in any number of religious traditions and legal codes, to the oath societies of the medieval Italian communes. In the modern period, Hobbes, Locke, and Rousseau all relied upon compacts of some kind to explain the normative dimensions of political life. At present, constitutions and charters are often used to create new communities or draw those already in existence together by placing before them a set of common principles under which they agree to be governed.

What all of these agreements have in common is that they are designed to bind parties, i.e. to make a kind of peace among them. This binding, in turn, creates obligations upon the parties to keep the peace by keeping their agreements. Even the language of peace reflects these principles. *Pactum* arises from *pax*, indicating the role of pacts in facilitating peaceful relationships. Furthermore, *pax* is rooted in a term that means to bind or tie down, as is the term *obligare*, the root of which, *leig*, also means to bind. As Richard Hyland has noted, the moral dimension of the *pacta sunt servanda* principle is also fundamental in continental European commercial law where the interconnectedness of these terms – agreements, peace, and obligations – is taken for granted. In contrast, this moral dimension does not exist to the same degree in American law, which holds that a breach of promise may be illegal and actionable, but in which morality as such is irrelevant.¹⁹

Daniel Elazar, who has written extensively on the use of covenants, and their more secular counterpart, compacts, defines a covenant as a “morally informed agreement or pact, established by mutual oaths or promises based upon voluntary consent . . . under conditions of mutual respect.”²⁰ In contrast to contracts, which involve a very constrained interpretation of the language in an agreement, covenants heavily emphasize “the spirit of the law.” While covenants can be legally binding, they come closer to the European view of jurisprudence described above, with its focus on the moral and social contexts of agreements. Covenants are also participatory, both substantively and procedurally, in that they involve mutual obligations, including some that may be contrary to one's short-term economic interests. And they are more profoundly political than agreements in social contract theory.

Elazar's covenantal theory focuses on three primary principles, each of which will be discussed in much greater detail.²¹ First, policies ought to take into account the human propensity to err, to commit selfish or even evil acts, a point covenantal thought shares with realism. The first principle leads directly to the second: as a type of federalism, covenantal theory maintains that power must be limited and shared. It is no coincidence that both

liberals and realists lay claim to the federalist perspectives of the American founders regarding the dangers of concentrating power. Where realists like Morgenthau and Kissinger focus on the balance of power they see at work in the US Constitution, liberals emphasize the freedoms preserved by limiting power. Both views recognize the important, if tragic, truth that the power to do good is also the power to do evil, a fact that applies to individuals as well as states. Third, covenantal liberty is the liberty to achieve the objectives of a social compact within a multiplicity of spheres of activity; public goods are the responsibility of civil society as well as the state. Covenantal, or federal, liberty is not to be confused with natural liberty, which can be equated with a view of liberty as autonomy and which I shall characterize as being contractual rather than covenantal. The covenantal view of liberty as circumscribed and having substantive dimensions is similar to the understanding of substantive freedom found in Aristotelian and some Marxian perspectives, as well as by “capabilities” theorists such as Amartya Sen and Martha Nussbaum.²² But because freedom is a good in and of itself, the first two principles must also raise important questions about the means by which these substantive ends are achieved. A covenantal polity is one that decenters power to the greatest degree possible so as not to crowd out civil society. In turn, civil society serves as the basis for building and sustaining a participatory and effective political system through what Sen and Jean Drèze refer to as “public action,” or the use of public pressure to trigger policy responses from state actors.²³ The success of public action does not rely upon a natural harmony of interests between state actors and the public as a whole. On the contrary, as Sen and Drèze note, public action may be quite adversarial at times.²⁴

All of these principles converge upon the principle of covenantal ontology, which, as is the case in contemporary liberal theory, focuses upon the individual. As such, covenantal theory is a form of cosmopolitanism. However, as I shall show, a covenantal conception of the individual as a being who is embedded in multiple, overlapping, relationships and communities and who is dependent upon others, along with the federal nature of the covenantal polity, does not lead toward a world state full of unencumbered, denuded, and alienated individuals. On the contrary, covenanted individuals remain dependent and yet free; indeed, they are free because they recognize the fact that their well-being is dependent upon the assistance of others, and that they have obligations to help others to become free as well.

An outline of the book

Chapter 1 begins with a further description of liberal theory as well as theories that serve as critiques or alternatives to liberalism. It also provides a more detailed description of the covenantal paradigm and how it is distinguished from contract. It then describes the entrance of covenant into the

modern period as a shift from theology to philosophy and political theory. As both Nietzsche and Hegel argued, the development of liberal theory involved the secularization of Christian assumptions about politics and, most importantly for this volume, about ethics. Because of the role they played in the historical development of liberalism, my focus here will be on the continuity between the Jewish and Christian traditions. In these traditions, ethics and interests existed in a beneficent though dialectical relationship to one another, i.e. in a kind of healthy tension. In the European context, this was particularly true of Reformational theology, which itself was to serve as the seedbed of liberalism.

My focus on Judaism and Christian history is not meant to suggest that covenants have not played an important role in other traditions as well. As Elazar observes, covenantal approaches to politics in the modern period were most successful in those regions that had established “oath cultures” before Christianity became the dominant religion of Europe.²⁵ In addition, Islamic religious texts have much to say with regard to honoring covenants, and oath traditions have played an important role in Islamic history. This fact, when taken in conjunction with the preeminence of the Islamic world (which was far more advanced than Western Europe) in medieval history, indicates that these are avenues of inquiry that warrant further examination.

Chapters 2 and 3 discuss parallels between the shift from tradition to modernity, via Newton and Locke, in science and in ethics. They also explain how covenant was pushed to the margins of social thought during the Enlightenment and through Kant’s epistemology in particular. During the early Enlightenment, classical liberals rendered politics rational by an appeal to interests, considered within the context of natural law. Their views contained a synthesis of ethics and interests that sought to universalize the ethical traditions of covenantal thought. Over time, however, ethics and interests were separated through the removal of natural law by later liberal thinkers. The appeal to interests was strengthened and narrowed in scope over time primarily by British utilitarian liberals in order to make liberalism as rational as possible. In response to this instrumental conception of political ethics, German thinkers, and Kant in particular, attempted to derive an ethical position that could transcend what they saw as an imprisoning and enervating perspective of moral life. There were numerous points at which important devolutionary changes in meaning or application of terms occurred; however, the most important change, I shall argue, is this one wrought by Kant with regard to the relationship between ethics, interests, and epistemology.

At first glance, this would appear to be an odd claim given Kant’s important, even critical, role in the development of liberalism at both domestic and international levels. Kant is obsessed with ethics and is also remarkably prescient regarding the direction of global politics. It is much more likely that undergraduate international relations students have studied and pondered his theories of ethics and international relations than his

epistemology. (There is good reason for this, as I have learned from personal experience.) But however influential his views on these former subjects have been, it is his understanding of the latter, of what may and may not be known, that is most important. His separation of noumenal and phenomenal worlds, of the realm of freedom and the realm of compulsion, carries with it tremendous consequences for matters of ethics. For in the noumenal world, we stand free but utterly alone. In the phenomenal world, we live with others but are not free. This presents a bit of a problem if our object is to devise an understanding of ethical statecraft, which is likely to require some conception of political communities with shared experiences. Kant's deontological theory of ethics, a view that has been quite influential in liberal thought, does not deliver us from this conundrum, however. For politics requires moral judgment, i.e. virtue, something which Kant's view does not exclude completely, but also does not easily accommodate.

Chapter 4 takes up the epistemic divide described in previous chapters and examines the anomalies that plague contemporary liberal political ethics at both domestic and international levels. Here again, Kant plays a crucial role. Kant believes that interests provide a bottom-up solution to conflict, a point of view he shares with British liberals. But there is also an aspect of his thought that is "descending," one that deals with top-down solutions derived from the rule-making function of pure reason as it affects practical reason.²⁶ Ascending interests, rooted in the public, deterministic world of phenomena, and descending rules, rooted in the private, noumenal realm of free action, stand on opposite sides of an epistemic chasm that cannot be crossed. Communitarian and postmodern critics of liberalism have focused significant attention on different aspects of this divide. Communitarians point out that the positivistic notion of ascending interests as preferences cannot provide a basis for the neutral, universal legal principles that are central to liberal theory. Descending rules derived from a Kantian deontological theory of ethics fare no better on the communitarian account, since they cannot speak meaningfully to the variety of experiences and preferences found throughout the world. If a viable theory of international ethics must take such experiences and preferences into account, as surely it must if it is not to be despotic, then its neutrality is in jeopardy. Such a theory must reach beyond its own principles in order to make sense of itself, i.e. in order to provide adequate justifications for its authority.

Critical legal theorists are also troubled by these inconsistencies. But they are even more concerned about the way in which liberalism's ostensible neutrality masks assertions of power on behalf of dominant classes, or states. Far from being progressive and benign, liberalism's commitment to the rule of law, in combination with its value-neutrality toward preferences, is exceedingly dangerous. Liberal states, which happen to be, for the most part, Western states, can choose which side of a binary opposition, e.g. sovereignty/human rights, will be used to justify any given action. For example, if in the midst of an international conflict aggression is deemed necessary, it

could be justified on the basis of self-defense (autonomy-positive law) or international morality (community-natural law), depending upon the circumstances.²⁷ Thus applications of law are little more than existential assertions of power by states who rely upon liberal conceptions of law to legitimate their actions. One response to this critique becomes immediately obvious: liberal states are hardly alone in using neutral language to mask assertions of power, and that is certainly the case. However, one must recall that liberalism's claim to be paradigmatic rests upon the belief that liberal states are "different."

Chapter 5 applies similar arguments to realism, showing how its links to neo-Kantian thought affect its ability to develop a coherent theory of international ethics. In order to see how this breach is manifested in realist theory, I examine the views of some of the most profound and insightful thinkers from within this tradition, all of whom were considerably more self-conscious about the ethics–epistemology divide than their liberal opponents. Max Weber, Hans Morgenthau, E. H. Carr and Henry Kissinger all struggled with how one could make sense of values in the midst of tremendous epistemic uncertainty. I focus on these four figures for two reasons. First, they are among the most philosophically oriented thinkers in the realist tradition, and thus more likely to be transparent regarding epistemic issues. Second, each of them is particularly critical of the idealism they see at work in liberal thought, of its detachment from the brutal world of politics. Realism's virtue, they believe, is precisely in its ability to see the world as it is. However, I believe that the neo-Kantian foundations of their epistemology raise important questions about this claim. Kissinger is particularly important in this analysis, given his role as both a theorist and a recent practitioner of foreign affairs. His practical struggles with foreign policy and ethics during the Nixon administration are likely to be familiar to most politically minded readers. What may be less well known is the history of his struggle, first as a student and then as a teacher of international politics, to find an adequate nexus between the two *philosophically*.

Chapter 6 turns to the reestablishment of covenant as a paradigmatic solution to the problems of liberal theory. Dormant since the demise of natural law theory in the early nineteenth century, covenantal theory is making a comeback. This revival is motivated both by the recent failures of statism and by the attractiveness of federalist solutions to thorny dilemmas at all levels of political organization. This chapter also discusses the philosophical underpinnings of covenantal theory to show how its epistemology and ethics are connected. The epistemic realism of covenantal thought provides a more compelling basis for humanistic ethics than modern liberalism can. I also address the characteristics of a covenantal world order. This order, to be properly covenantal, must, ironically, look much like the *foedus pacificum* (peaceful covenant) Kant described in his "Perpetual peace". As I noted above, liberal international theorists assert that the liberal domestic model is

applicable at the international level. I will argue that they are correct to the degree that liberalism is considered in its reconfigured covenantal form.

Unfortunately, many indicators also lead one to believe that a liberal future will be characterized by bureaucracy rather than liberty. As Alexis de Tocqueville noted, egalitarianism has the potential to lead to political progress, but it may also lead to despotism, depending upon the moral conditions of civil society and the structure of political institutions. More recently the field of social capital research has renewed discussion regarding the important links between the sustainability of liberal democracy, the strength of civil society, and political culture. Strong domestic and international civil society sectors are of supreme importance to the development of a covenantal order. But this chapter also explains why much of the contemporary literature on this subject advocates an apolitical view of civil society that is alien to Tocqueville's analysis and antithetical to covenant.

In the final chapter, I look at the possibility of a covenantal global order arising in the future. I discuss why certain forms of social capital, particularly those that contribute to the propensity to facilitate public action, are beneficial and necessary to the development of a covenantal society. In addition, I discuss some examples of covenantal arrangements at work, all of which contribute to the transition toward a larger transnational covenantal order. This transition, like all human enterprises, is contingent; it will not occur as the result of the inevitable unfolding or end of history, the economy, or any other deterministic force. It is the result of a choice, a "hearkening" to the terms of covenantal relationships and an elevated, moral view of liberty as the liberty to do good. The future of global politics will be determined by choices for or against that vision.

1 From covenants to interests

The evolution of liberalism

Liberal international thought has heralded the rising forces of economic globalization that have made the world a much smaller place, particularly since the end of the Cold War. While there is an increased emphasis by intellectuals on diversity and multiculturalism, the fact is that a cosmopolitan world culture has arisen in which differences are greatly outweighed by similarities. Despite the benefits of exchanging economic competition for the military rivalries of the Cold War, questions about this change remain. As the immediate post-1989 optimism has faded, and in light of growing evidence that globalization brings with it significant negative externalities, those questions are, if anything, becoming more numerous. Certainly the lives of hundreds of millions of people have improved during this time; however, for others, globalization has not been the positive force many had hoped it would be. Many liberals aspire to create an ameliorative win-win world order in which everyone can benefit from the changes taking place, i.e. in which everyone can pursue his or her interests. Many would also argue that doing so is a moral duty for those populations, and the states they inhabit, fortunate enough to have the resources, to help bring about such a world. A philosophical chasm exists, however, between these aspirations and the interest-orientation at the heart of contemporary liberal theory. This was not always the case. Liberalism arose from an intellectual milieu – the horizons of covenantal theory – that secured both interests and ethics.

In this chapter, I discuss the liberal revival after 1989 and examine principles common to the many forms of liberal theory. Next, I briefly examine the primary critiques of liberalism. Third, I examine the nature of covenants and the important distinction between a covenantal model of political ethics and the contractual model of contemporary liberalism. Finally, I look at how covenant became an internationally influential mode of thought in the modern period.

Liberalism and its critics

It may seem counterintuitive to argue that liberalism as a theory of international relations is in crisis. Since the fall of the Soviet Union, liberalism

has experienced a revival both as an empirical explanation of world order and as a normative basis for foreign policy. Much of this revival has centered on the ostensibly unique contributions of liberal regimes to a peaceful, prosperous world order. Michael Doyle has argued that liberalism is the only paradigm that has provided researchers with falsifiable claims subject to empirical examination. In his view, for example, the democratic peace thesis has been confirmed in a way that the claims of other paradigms have not.¹ Books like Bruce Russett's *Grasping the Democratic Peace*,² Francis Fukuyama's triumphalist *The End of History and the Last Man*,³ and a resurgent interest in Immanuel Kant's *Perpetual Peace*⁴ all reveal a renewed sense of hope that peace can eventually be achieved through liberal means. What is common to all of these works, and to the liberal perspective in general, is the view that peace will be brought about through an alteration in the structural relationships of states that reflect changes in the domestic conditions of those states. As states become consolidated liberal democracies, they will cease to pose a military threat to one another. There is some evidence for this being the case. Indeed, it appears that, as Kant predicted, (liberal) republican states tend not to fight one another.⁵

Beyond this principle regarding the importance of domestic variables, what are the other primary tenets of liberal international relations theory? While there is a broad range of liberal theories, economic, ethical, and epistemic, my focus at present is on *political* liberalism, though each of these other elements of liberal theory will play an important role in my argument. Even narrowing the discussion to the political realm still leaves an enormous range of theories that could be labeled as liberal. Yet they do have certain elements in common. Andrew Moravcsik has attempted to develop a parsimonious and thus more plausibly scientific liberal theory, one that relies on individual (and exogenous) preferences to explain international behavior. Moravcsik's theory has the ostensible benefit of being methodologically individualistic, leading him to characterize state behavior at domestic and international levels as the outcome of rational individuals pursuing these preferences, albeit in different political arenas.⁶ State behavior is thus individual behavior writ large, while the international system is a reflection of multiple actors, states, institutions, and civil society organizations, strategically seeking their own ends. Realists could easily respond by pointing out that politics as the pursuit of preferences sounds suspiciously like politics as the pursuit of interests. However, Moravcsik points out that whereas realists view international politics as state-centric and largely zero-sum, liberals are able to incorporate a much broader set of interests as well as a more comprehensive understanding of social identity. In addition, liberal theory can account for what must remain anomalies in realism, such as the differences in relations between states in different regions (e.g. the European Union as opposed to the rest of the world), or similarly the existence of peaceful relations between advanced industrial states.⁷

Moravcsik's search for a genuinely paradigmatic theory of international

relations may have certain empirical virtues; however, normatively, it is not particularly helpful given his desire not to speculate on the source of these preferences.⁸ Though I agree that individual autonomy and individual preferences are critical to contemporary liberal theory⁹ – points that are in fact central to my argument regarding the failure of liberalism – there are other principles that must be included as well, none of which are inconsistent with his “thin” paradigmatic approach.¹⁰ Rather, they build upon the elements of his theory. Anne-Marie Slaughter, for example, cites a number of other characteristics that help to further define the term.¹¹ In her discussion of the core characteristics of politically liberal states, she includes representative government, “constitutional guarantees of civil and political rights, juridical equality, and a judicial system dedicated to the rule of law.”¹² In addition, both Moravcsik and Slaughter believe that a separation between state and society that can provide room for civil society actors is a fundamental characteristic of liberalism.

My understanding of what constitutes a liberal state is similar to Slaughter’s, though there are two points I would add. Certainly liberal states should guarantee a protected set of rights, which must precede the duties and claims laid upon them by political institutions, domestic or international.¹³ There is broad agreement that such rights are crucial to the dignity and well-being of all people. However, the emphasis on different categories of rights – positive, negative, political, economic, and so on – will differ between political communities. Liberal internationalism as the term is used here is broad enough to incorporate a number of distinctive types of *politically* liberal states and intergovernmental organizations. These are roughly synonymous with those countries listed as members of the European Union (EU), the Organization for Economic Cooperation and Development (OECD), or by Freedom House as “free.” However, each of these politically liberal states will differ in terms of its level of economic development and its approach to state-market relations and what Gosta Esping-Andersen has termed the “de-commodification” of social welfare.¹⁴ For Esping-Andersen, liberalism involves a minimalist view of the role of the state as a night watchman. Indeed, his use of this term is similar to the phrase “neoliberal economics” heard in current discussions throughout Europe regarding the welfare state and economic restructuring. In the context of the EU in particular, John Ruggie’s term “embedded liberalism” is more applicable here than Esping-Andersen’s.¹⁵ Ruggie finds that this form of liberalism was one strongly situated in social values and in which strong social welfare protections accompanied market liberalization, as was the case in post-World War II Europe. Beyond this is the nature of the European left’s attempts to develop a separate trajectory from what would now be called the American understanding of state-market relations and the autocratic approach to governance found in Eastern Europe, neither of which appeared to them to be particularly just. This project became all the more critical after 1956, after the Soviet Union’s considerably illiberal display of force in Hungary raised

further questions about the fundamental role of basic civil rights and liberties in the search for a comprehensively just society.¹⁶ This is not to say that differences in levels of decommodification are irrelevant or that they do not have profound consequences.¹⁷ On the contrary, in the chapters that follow, I shall show why neoliberal economic views are problematic for both historical and moral reasons.

Second, despite its attachment to a progressive view of history, liberal theory as it appears now is also ateleological. Mark Zacher and Richard Matthew maintain that there should be no “expectation that men will converge upon a single, shared view of the ends of life.”¹⁸ Fukuyama’s defense of liberalism does include a teleological element; however, his approach is the exception. John Rawls, for example, in his *Theory of Justice*, specifically rejects comprehensive perspectives, which he believes implicitly contain a teleological element.¹⁹ The requirement that there be a common comprehensive understanding of what constitutes the good violates his position, central to a theory based on individual autonomy, that decisions be made according to principles rationally available and justifiable to all. This is not to say that liberals do not have some view of what a just and decent global community would require.²⁰ Rather, liberalism requires a kind of agnosticism as to what any individual’s specific understanding of the good should include.

While the degree of cooperation between international actors, whether they are liberal states, international institutions, or civil society organizations, is always contingent, such cooperation has been, and will continue to be, critical to the secular expansion of the zone of liberal peace.²¹ The integration of states in Europe, for example, has required the involvement of all three types of actors in order to make the EU a workable reality. Realists certainly believe cooperation is possible, particularly in the form of interest-based alliances, but liberals have in mind more permanent, secular shifts in state relations. It is not simply the case that liberal states seek to fulfill their own ends, they argue. What is also important is that in the process of doing so, they have created an historically unique form of peaceful cooperation with other liberal states. Additionally, these growing ties further secure a common set of rights for the inhabitants of this region. Together, these states, in conjunction with other international actors, can continue to bring about lasting changes in the world order. And to the degree that the zone of liberal states grows, so too will the zone of peace that exists among them.

Slaughter has more recently written on the evolution of “global government networks” which illustrate the empirical and normative importance of this growing zone of cooperation among liberal states.²² The transnational networks she describes arise from the routinization of contacts between bureaucratic agencies with similar responsibilities. Empirically, these networks already exist and are in fact growing rapidly. In addition, there appears to be a convergence in the area of jurisprudence, where US and European courts have engaged in judicial policy-borrowing on important issues of criminal and civil law. This development is particularly important

since, in her view, these interactions are likely to serve as another mean of securing individual rights. Normatively, Slaughter believes these contacts should be encouraged and facilitated since they allow democratically accountable institutions to cooperate with one another, thereby limiting the power of any individual state. At the same time, unlike international institutions like the United Nations, these networks can rely upon state power to enforce their decisions.

Like Slaughter, I believe that solving collective action problems is the central challenge international actors face (though I will ultimately dissent from the normative portion of her argument on a number of points). Liberal theories do take the collective action dilemma quite seriously. And contrary to the arguments of some critics of liberalism, they do not generally assert that the cooperation necessary to solve these problems is easily acquired or maintained. Robert Keohane's distinction between cooperation and harmony is instructive on this point. Liberalism does not require a belief in social harmony; it does posit that cooperation can, and does, occur when overlapping interests exist. Keohane does not believe that this cooperation is in any way necessitated by the existence of such interests, only that it becomes more likely.²³

The model for much of this cooperation has been economic. Early liberals were fascinated with the way markets appeared to illustrate individual decision-making that could lead to positive social outcomes without interference from the state. Cooperation required economic actors to make decisions grounded in some understanding of individual economic gain. At the same time, without the coercive power of the state behind them, these actors had to appeal to the desire in others to benefit from such an exchange as well, leading to a more expansive view of self-interest. While contemporary liberals have little faith in unregulated markets, they continue to look to this model as indicative of the kinds of cooperation possible among independent actors who may have very different views of what is meant by "the good." John Locke and Adam Smith come to mind, of course, but one could also point here to the neofunctionalist views of Jean Monnet and Robert Schuman. It is no coincidence that the EU began as a common market between states that had been devastated by military competition with one another.²⁴

Certainly there are many more principles that could be included here; however, those listed above are particularly important since they provide some boundaries, inside of which other issues can be contained. Liberal ontology is decidedly focused on individuals whose moral freedom to make specific choices about the good is protected by a set of rights. This freedom allows them to pursue their interests as they understand them, but in the context of a system of neutral principles that can also protect others' rights to do the same. This cooperation at the domestic level is accompanied by cooperation at the international level among liberal states of a kind that is qualitatively unique in human history. While cooperation is not always easy

or even expedient in the short run, there are multiple instances of compromise that reveal a broad perspective of interests at work within liberal states, one that goes far beyond military security. Liberal states appear to have found a way to interact with one another that does not involve military conflict, or at the very least reduces such conflict significantly, and at the same time, provides mutual benefits in other spheres as well.

Critiques of liberal thought

While liberalism has had some successes both as theory and in practice, criticisms of its central tenets abound. Unlike realism, liberal international thought is primarily guided by principles of domestic politics.²⁵ The relatively pacific relations between liberal states – the concern with rights, due process, and commerce – are rooted in the internal characteristics of those states rather than in the characteristics of the global system. What sets liberalism apart from realism is the argument that transforming *domestic* politics in liberal states affects how they interact with one another and with illiberal states. As Hans Morgenthau noted, there are two streams of thought that gave rise to modern liberal international relations theory. One is the rationalism of the Enlightenment; the other is “the political experience of domestic liberalism.”²⁶ Both streams are closely intertwined. In his view, liberalism is the consummately rationalist theory. Should its rationality fail, however, this would prove devastating for those trying to make sense of liberal practice and ethical prescriptions. Scholars who work within each of the critical perspectives below argue that this is in fact what has occurred.

Liberalism has been attacked by Marxists, communitarians, feminists, and postmodern and critical scholars, among others. Marx’s key insight regarding the way social and political practices, and the institutions that reinforce them, are developed is of great significance here, as is his recognition that freedom requires both procedural and substantive elements in order to be meaningful. As I show in later chapters, Marx’s understanding of substantive well-being plays an important role in reconstructing liberalism. Also significant is Antonio Gramsci’s analysis of how the means by which a dominant class maintains hegemony include cultural as well as political factors.²⁷ In fact, many aspects of Gramsci’s thought reappear in the more recent critiques of liberalism found in communitarian, feminist, and post-modern thought.

Communitarians²⁸ assert that the rationalization of democratic politics during the Enlightenment placed liberalism upon a rational foundation of interests that could counteract the arational passions. “Interests,” in this work, are defined in accord with the meaning used by A. O. Hirschman in his book *The Passions and the Interests*. “‘Interests’ of persons and groups eventually came to be centered on economic advantage as its core meaning not only in ordinary language but also in social-science terms as ‘class interests’ and ‘interest groups.’”²⁹ As Hirschman reminds us, this involved a narrow-

ing of the term which earlier had included other pursuits like honor and ambition in the pursuit of glory. This broader definition sounds much like Madison's "ambitions countering ambitions" in the extended republic.³⁰ Interests, Hirschman writes, contain "an element of reflection and calculation with respect to the manner in which these aspirations were to be pursued."³¹

However broadly defined, the pursuit of interests during liberalism's nascency was circumscribed by normative assumptions, most of which were rooted in natural law theory. Over time, communitarians argue, these assumptions became less and less visible, leaving only the morally autonomous rights-bearing individual of modern liberal theory. International liberalism requires a moral transcendence of interests to solve collective action problems; yet the emergence of this autonomous creature, who looks suspiciously like the "last man" abhorred by Nietzsche and Weber, presents serious problems. Nietzsche describes this individual as being guided solely by appetites, concupiscence, and a desire for security. He is soulless and utterly devoid of spiritual sensibilities.³² For Weber, he was the cog in the bureaucratic machine of the iron cage of modernity. The distance between this last man and the morally autonomous liberal individual appears entirely too short to many communitarian critics of liberalism.

Like the communitarians, feminists have concerns about the public/private division in liberal thought.³³ The individual found in liberal theory does not exist, they argue. Rather, individuals are fundamentally gendered beings and live in a political environment in which gender matters. Indeed, the lines of public and private spheres, and the policies that result from these lines, are in no way neutral. They have largely been developed by, and for, men, and are embedded in the language of law and politics in ways that obscure their origins.³⁴ The separation of social and political realms at the international level appears particularly troubling to feminist scholars in light of oppressive practices, such as sexual slavery, the use of rape as a means of terror in conflicts around the world, female genital circumcision, forced marriages, honor killings, and the like. Female genital circumcision, for example, is not likely to be as significant a concern for the genderless liberal individual as it will be for women. In addition, the emphasis on sovereignty in international relations (hardly specific to liberal theory) prevents global and transnational organizations from dealing effectively with these kinds of problems.

Postmodernism and critical theories present a different set of problems for liberalism. However frivolous postmodernism may appear in contemporary practice, it is rooted in a serious critique of modernism that cannot be ignored. Postmodernism is a powerful response to modernism precisely because it is a child of modernity. It highlights the contradictions of modernism in general, and those of the Enlightenment in particular, ostensibly revealing the fact that liberalism is, theoretically, a hollow shell. For this

reason, postmodernism has enormous ethical implications, something that might seem obvious given that the first postmodern theorist was Nietzsche, whose lifelong project was to engage in a “transvaluation of values.” Liberals and postmodern scholars alike have questioned or even denied the very existence of human nature. However, where liberals see behavior as contingent and dependent on incentives, postmodern or constructivist theorists argue that behavior is utterly contingent.³⁵ The notion of rational action in response to incentives contains far too much of the metaphysical “presence” and attachment to objectivity that renders realist views of human nature problematic. While liberals generally have a more open and optimistic understanding of the ability of institutions and ideas to change behavioral outcomes, they remain unwilling to acknowledge that conceptions of value are socially constructed. Like postmodernism, critical theory also raises questions about the neutrality of liberal discourse. Where critical theorists differ from postmodernists is in their greater optimism regarding the emancipatory potential of discourse. Their view is that potential can be fulfilled through the development of a counterhegemonic movement away from the current system of political and cultural control by the dominant class, leading to a transformation of material conditions.

This work contributes to the postmodern corpus by taking seriously the challenge postmodernism brings to the question of how one ought to think about ethics within the sphere of international relations. A recurrent theme in postmodern literature is that there are significant dangers in implementing policies not grounded in shared values and at least a modicum of consensus. But the first step in avoiding this problem is to recognize how and why it occurs. To accomplish this, I turn to the critical legal studies (CLS) movement. The CLS movement is useful to my project since it combines elements of postmodernity, feminism, race theory, and critical theory. Though I will take issue with some aspects of the CLS movement, I will also argue that its claims that liberal intentions to do good often mask assertions of raw power are largely correct.

Realist critics of liberal theory tend to focus on the empirical flaws of liberalism. Where liberals see increasing opportunities for cooperation in the post-Cold War period, realists like Samuel Huntington and John Mearsheimer point to the rising possibility of an increasingly fragmented world based on regional power blocs with incommensurable interests.³⁶ Liberals, they argue, do not deal adequately with the continuing importance of power in global politics. Nor do they account for the way in which power has been, and will continue to be, used by states to achieve their interests, many of which they see as zero-sum in nature. Most liberals assume the desirability of a global liberal order reached through the development of a workable system of international law that constrains state behavior. Realists criticize the means by which liberals want to achieve this order through collective security measures. Such measures underestimate the degree to which states are willing to ignore agreements when the distribution of state

capabilities changes. Stronger states will ignore these agreements in order to gain power; weaker states will ignore them so as not to lose power through what is likely to be a debilitating conflict. Realists also criticize attempts to expand the jurisdiction of international juridical bodies and to realign domestic political structures of other states toward democracy, policies that may involve entangling forms of intervention. It is no coincidence, for example, that some of the harshest critics of the US intervention in Iraq were realists who served in the first Bush administration.³⁷

I do not wish to argue that these critical perspectives constitute an exhaustive list (or description) of alternatives to liberal thought, but they are the most common to appear in the academic literature. Realism continues to be the central source of opposition, though there is clearly a resurgence in the number and importance of Marxian critiques.

To some degree, liberal democratic states have adopted policies that respond to many of the major issues raised by critics of liberal theory over the centuries.³⁸ But many of these responses have been superficial. Moreover, they have not addressed liberalism's most serious problem: the inability of liberalism to make sense of itself in the modern period, i.e. its inability to connect its ethics, and thus its policy outcomes, with its theory of knowledge. Weber, who was arguably the most astute chronicler of the epistemological changes wrought by modernity, found this flaw deeply troubling, even tragic. It was also, in his view, inevitable. Far from leading to a beneficent Hegelian end of history, Weber believed the forces of modernity were moving inexorably towards two monstrous outcomes. First, he depicted the inescapable iron cage that modern rationalism entailed; and second, he pointed to the rise of the Nietzschean last man, the bourgeois for whom this cage would seem a haven rather than a curse. Both of these developments contradict liberal historiography, which assumes progressive movement toward greater freedom. More importantly, Weber believed that reason, understood in the Enlightenment sense of that word, could provide no assistance to those seeking to justify their values. As this process of justification was at the heart of liberal theory itself, one would suspect that there would be some significant effort by liberals to show why Weber was wrong. That has not occurred. Instead, liberalism has incorporated Weber's epistemological critique by attempting to turn it into a virtue. Pluralism is not only a characteristic of liberal society; it is now the central characteristic of liberal epistemology as well. Even within the context of its own assumptions, liberalism has become a rationalistic account of the irrational.

Weber and the problem of the last man

In his work *The Protestant Ethic and the Spirit of Capitalism*, Weber outlined the monumental transition that occurred 400 years ago at the beginnings of modernity – a period he characterized as being more and more dominated by the rationalization of every aspect of life. Weber's work was remarkable not

only as a social history of capitalism but also as a history of rationality. For what led to the iron cage was the transition from *Wertrationalität* to *Zweckrationalität*, or from value rationality to instrumental rationality.³⁹ As modernity progressed, the instrumental, the economically rational, or as economists might put it, the microrational, was emphasized more and more. The pursuit of interest became all consuming while, by these standards, the arational and the moral became less and less compelling as sources of action.

Weber's chronicle of this transition is salient in this context because, as I will argue, liberalism followed this same pattern. Liberal theorists originally wrote with certain moral assumptions in mind, assumptions that served to circumscribe and define proper social behavior and social obligations. Evolving as it did out of the political applications of covenant theology, liberalism originally entailed beliefs about moral obligations and duties between government and governed. Classical liberal theorists, however, relied upon the concept of interest to make their theory rational. This would have profound consequences for the ethical underpinnings of the theory in later centuries.

Depicting the rational pursuit of interest as the characteristic feature of the modern order, Weber remarked:

This order is now bound to the technical and economic conditions of machine-production which today determine the lives of all the individuals who are born into this mechanism, not only those directly concerned with economic acquisition, with irresistible force. . . . Today the spirit of religious asceticism – whether finally, who knows? – has escaped from the cage. But victorious capitalism, since it rests on mechanical foundations needs its support no longer. The rosy blush of its laughing heir, the Enlightenment, seems also to be irretrievably fading, and the idea of duty in one's calling prowls about in our lives like the ghost of dead religious beliefs.⁴⁰

Weber's pessimism about the future, expecting as he did the emergence of the last man, is reflected in his dictum about what these men would look like. "Specialists without spirit, sensualists without heart; this nullity imagines that it has attained a level of civilization never before achieved."⁴¹

There is a subtle but important relationship found in these passages between the ethics of modernity and the epistemology upon which they rest. As reason became more and more synonymous with instrumental rationality alone, the proper realm of rational and ethical decision-making became more circumscribed as well. In Weber's own work, we see the consequences of the loss of the ability to believe in a rational basis for anything beyond instrumentalism or interest-based calculations. Thus he remarks upon the fading of the Enlightenment progressivism as modernity unfolds. In the post-Nietzschean era, means and ends are held to be autonomous and divorced from each other. Good social science reveals the implications of means

chosen to accomplish certain predetermined ends. However, social science can never address the value of those ends, for values are inaccessible to reason.

Yet there seems to be little recognition of the gravity of this loss among most intellectuals. As John Gray has noted, contemporary political philosophy seems to be “wholly untouched by the disillusioned sociological vision of Weber.”⁴² Alan Wolfe reflects upon the aporia of post-Weberian liberal democratic life, an aporia defined by the need to maintain a belief in a way of life as good and an inability to articulate what such a good can possibly mean, arguing that the “citizens of capitalist liberal democracies understand the freedom they possess, appreciate its value, defend its prerogatives. But they are confused when it comes to recognizing the social obligations that make their freedom possible in the first place.”⁴³ Liberal democracy – championed by various thinkers as the end of history and the only reasonable choice of regimes left – cannot justify itself as an ethical and, therefore, as a political, project.

Alexis de Tocqueville was also acutely aware of how serious the gap between individual interests and obligations could be for liberal democracy. Tocqueville defines individualism as a way of life in which persons become concerned only for the needs and interests of themselves, their immediate family and acquaintances.⁴⁴ This way of life will lead not to a happy, sustainable democratic polity but will lay the foundations for the kind of despotic centralization and withering of civil society he witnessed in France.⁴⁵

The dilemma, then, in liberal thought – domestic or international – is how to unite interests and obligations of the kind liberal society depends upon for its survival, particularly obligations relating to the pervasiveness of violence and poverty. As Pierre Manent notes in his commentary on Tocqueville, in liberal democratic society “the rights of man are deliberately silent on the ends of man.”⁴⁶ This dilemma is a profoundly moral one. States, and their leaders, must be persuaded that participating in solutions to economic, environmental, and security problems is necessary and proper even at the expense of their own short-term interests. But on this point, liberal ethics can have little to say. Liberal ethics cannot be defended using liberal epistemology. Its epistemology has the rather bizarre characteristic of fitting well with either postmodern value relativity of the sort outlined by Weber, or to rational choice, microeconomic rationality, in which preferences are exogenous. Yet liberal theorists go on making assertions about what sounds suspiciously like a public or common good, not just for a community or a state, but for the entire globe. Theory and praxis do not form a coherent whole and need to be reexamined. What Herbert Marcuse said of Greek philosophy – “Epistemology is in itself ethics, and ethics is epistemology” – is no longer true for liberalism.⁴⁷ The disjunction has become severe and debilitating. As the gulf between ethics and epistemology grows, liberalism’s assertions about the good appear to be little more than what critical theorists have long asserted, i.e. rhetoric masking

power. Though some liberal theorists are acutely aware of this problem and have attempted to address it,⁴⁸ the vast majority appear to be unconcerned about its implications.

To understand the transition from liberal rationality imbued with the ability to address moral questions to one that is primarily instrumental, it is necessary to look at the context within which liberal founders were writing. Liberal history can be separated into three periods that apply to both domestic and international levels of analysis: *covenantal* thinkers who prepared the way for liberalism by revolutionizing thinking about state–society relationships; *classical liberal* thinkers who articulated a rational interest-based understanding of political thought; and *contemporary or late modern liberals* who posit a liberalism in which the morally autonomous individual plays the central role and for whom there can be no public articulation of a communal good. While it can be argued that it is the modern incarnation of liberal thought alone that is subject to deconstruction, this claim ignores the unitary narrative thread uniting classical liberal rationality with modern rationality. In order to understand this evolutionary (or devolutionary) process, it is first necessary to discuss the elements of the covenantal political paradigm.

Covenantal thought and the synthesis of ethics and interests

A significant body of literature on international ethics has been devoted to examining the differences between cosmopolitan liberalism and communitarian particularism. Cosmopolitans argue that communitarianism is too closely tied to territorial or parochial interests, while communitarians express concerns about the abstractness and paternalism of universalist ethical theories.⁴⁹ The covenant paradigm, in contrast, captures both the universal and particularist components of the cosmopolitan⁵⁰ and communitarian⁵¹ views.

In her excellent work on the role of covenant in Tocqueville's *Democracy in America*, Barbara Allen has described a covenant as an agreement, but also as a way of thinking, one that, in the case of political covenants, requires citizens "to exceed commandments, realizing the spirit as well as the letter of the law in their daily activities."⁵² Daniel Elazar, who is best known for his work on political theory and American federalism, has also written extensively on the subject of covenants in politics. Covenants have multiple dimensions in Elazar's view: they involve a political ontology, an ethic, and attention to institutional structures, all of which are bound together as policy designed to maximize the well-being of others. While I reject some aspects of Elazar's thought,⁵³ I find that three elements of his approach to covenant are particularly useful: his distinction between covenantal federal liberty and contractual natural liberty, his emphasis on the nexus between ethics, policy, and administration, and his application of federalism to issues

of global governance. In this section, I shall deal primarily with the first issue, the distinction between forms of liberty, given its importance in understanding the devolutionary process that occurred within liberal thought. The latter two subjects are treated in greater depth in Chapters 6 and 7.

Covenantal ethics and the covenant-contract dichotomy

Elazar's interest in political culture and institutions led him to examine the differences between covenantal governance and the two other forms found in political history. Taking his cue from *The Federalist Papers Letter 1*, he states that regimes may be organic (accidental/traditional), hierarchic, or covenantal/federal (implemented by design).⁵⁴ Regimes of the first type arise through tradition and are rooted in arational, historically specific circumstances. The same may be said, to some degree, of hierarchical regimes whose legitimacy rests in some combination of coercion and tradition. Only the final form – the covenantal or commonwealth regime – is a product of rationality, the result of a voluntary cession of sovereignty to some authority with specifically enumerated, limited powers.

While this description sounds much like the social contract of classical liberal theory, there is an important difference. The covenantal relationship is profoundly and primarily *ethical*, involving mutual obligations that, in a short-term or individual sense, may be contrary to one's economic interests. Covenantal regimes, for example, may order public/market relationships in ways that are not always purely consistent with these interests. And covenantal thought is more profoundly political than social contract theory, recognizing the significant limitations of contract that result from a choice to wall off an enormous part of human existence, namely the realm of obligations rooted in some understanding of a common good. Contractually oriented arguments that assert the need for the state to be neutral toward such ends are not only normatively problematic, but also empirically deceptive, for every decision as to where to draw boundaries between public and private spheres involves some hierarchy of political values chosen by some political authority.

Covenant relocates the relationships between politics, ethics, and economics, restoring the latter to its earlier role as a normative rather than instrumental field as it appears in contractual thought. The definition of good government is "measured by the degree to which it promotes the public good and in terms of the honesty, selflessness, and commitment to the public welfare of those who govern."⁵⁵ Unlike ideal states found in some versions of liberal social contract theory, the best states in covenantal theory, which Elazar appropriately refers to as commonwealths, are not those that govern least, but those that govern best. This observation is not meant to be a tautology. Covenantal thought recognizes that there are a variety of ways to structure a polity to maximize freedom and the fulfillment of obligations

simultaneously, all of which converge generally around some form of federalism. For this reason, I argue that covenantalism is a form of federal cosmopolitanism with significant substantive dimensions.

The importance of ethics in Elazar's ideal commonwealth leads him to make distinctions between three ideal typical forms of liberal democracy: covenantal, compactual, and contractual. (I would add the term "charter" to describe agreements with covenantal qualities as well.) While covenants, compacts, and contracts are to be distinguished from hierarchical and organic forms of governance, they must also be distinguished from one another. For the purposes of this discussion, the differences between covenant and compact are relatively unimportant. But contract is another matter entirely.

[C]ovenantal or compactual obligation is broadly reciprocal. Those bound by one or the other are obligated to respond to each other beyond the letter of the law rather than to limit their obligations to the narrowest contractual requirements. . . . As expressions of private law, contracts tend to be interpreted as narrowly as possible so as to limit the obligation of the contracting parties to what is explicitly mandated by the contract itself. Contracts normally contain provisions for unilateral abrogation by one party or another under certain conditions . . . compacts and covenants generally require mutual consent to be abrogated, designed as they are to be perpetual or of unlimited duration.⁵⁶

Each form of association carries its own ethical assumptions. As Elazar notes, contract implies a very limited understanding of obligations, and because they are meant to be interpreted narrowly, contractual arrangements are quite useful in the realms of law and business. While a measure of trust is necessary for an economy relying upon contracts to function, interests defined by the letter of the law are what matter in these relationships. In business arrangements, where significant amounts of money may hang upon the interpretation of a phrase or even a single word, it is not unreasonable to pay legal specialists outrageous sums to spend hours combing through every word of a contract. Covenantal thought, however, goes far beyond this narrow range of interpretation. It emphasizes the spirit of agreements, providing a real-world ethic in which obligations are primary while interests are understood in the broadest terms. Neither absolute autonomy nor non-consequentialist goods make any sense in the covenantal perspective; for the covenantal ethic unites consequential interests with transcendent humanistic goods. In short, covenants and compacts require a level of trust much greater than that of contract. For example, marriage in its ideal form should constitute a covenantal relationship between equal parties. Unfortunately, in many societies, marriages are constructed upon unequal contractual grounds. All too often, women are regarded as property to be traded; their interests are not considered relevant or are defined in such a way as to deny them any

sense of agency. This contractual asymmetry is not limited to developing societies, however. It exists in more subtle forms even in societies in which women ostensibly have equal protection under the law. Perversely, the consequences of no-fault divorce laws, designed to be a means of recourse for parties (again primarily women) in abusive relationships, have been profoundly contractual. Judges adjudicating conflicts based upon these laws have consistently ignored structural economic and social inequities between parties. On those rare occasions when this is not the case, judicial orders are then ignored by those bound by them as well as those responsible for their enforcement. A society with covenantal aspirations, in contrast, will recognize that its interests are consistent with the provision of public goods. This certainly includes some measure of material goods, but should also include the development and protection of the ability of all its members to make meaningful choices regarding the direction of their own lives.

Jewish thought never had difficulty in reconciling the two realms of interests and public goods. The Torah is rife with transcendent ethical commands expressed in consequentialist terminology, explaining the relationship between “hearkening” and blessing. As Elazar points out, there is no word in ancient Hebrew for “obedience.”⁵⁷ The duty to obey can only be rooted in the agreement to covenant; the agreement itself is made rational by the expectation of blessing. Both human and deity agree to limit, and share, power in order to achieve a higher good. The Torah contains a multitude of laws that do not appear to be in one’s short-term economic interests: redistribution of property, limited sovereignty over one’s land, and the prohibition of usury, among others. Yet the promise of the Torah is that by giving up a limited level of autonomy, one’s long-term interests will be served.

As historical proponents of this Jewish model of covenant, the Puritans, and John Winthrop in particular, believed in the need to balance interests with moral obligations in their newly designed communities. Elazar observes that the problem of reconciling the needs of the marketplace with the commonwealth concept was solved in Puritan communities through the construction of covenants. These agreements were designed to “mediate between self-interest and conscience, material means and transcendental ends, and personal and collective destinies in the commonwealth.”⁵⁸

Elazar’s point here is not to idealize Puritan society (or Winthrop), the flaws of which are well known. Like Tocqueville, who found Puritan society to be odd or even abhorrent in certain aspects, Elazar is interested in how the Puritan view molded the shape of the political culture and created a framework within which interests and ideals could be joined. In the American instance, this took place decades before John Locke’s attempts to justify revolution in his *Second Treatise of Government*. The method by which Puritans distinguished between what Tocqueville would later call self-interest rightly understood and a narrower more corrosive form of self-interest is found in their separation of “federal liberty” and “natural liberty.” The former concerned “the proper end and object of authority, and cannot subsist

without it; and it is a liberty to that only which is good, just, and honest. . . . This liberty you are to stand for with the hazard (not only of your goods, but) of your lives, if need be."⁵⁹

Natural liberty, in Winthrop's view, resembles freedom in late liberal theory. "By this, man, as he stands in relation to man simply, hath liberty to do what he lists; it is a liberty to evil as well as to good."⁶⁰ In other words, one has the freedom to do what one will so long as no one else is harmed, with harm being defined as narrowly as possible. The morally autonomous individual should not be impeded in pursuing his or her interests as he or she sees them. But one can genuinely raise the question as to how obligations are justified from within natural liberty, a question that has plagued modern liberal theory. For example, Fukuyama writes that liberal democracies "are not self-sufficient,"⁶¹ and that "liberalism must reach beyond its own principles to succeed"⁶² precisely for this reason.

Finally, there is covenant as a form of political justification for particular forms of governance or policy. Elazar is here again probably the most prolific spokesman for the former, describing the movement from statism to federalism in the postmodern period a "paradigm shift." Along with many liberals in the field of international relations, Elazar notes the transition from the hard-shelled nation state to the confederal network. He also notes how, in accordance with covenantal theory, this transition involves both interests and public goods, the shift from Common Market to European Union being a prime example.⁶³ The covenantal polity requires the presence of *all* these elements: limited and enumerated powers of government based on a sense of realism concerning the uses of power, in concert with a commitment to a type of liberty that is focused upon the freedom to live up to one's moral obligations. Without federal liberty, one might have a libertarian polity in which market principles reign supreme and obligations are purely voluntary. Without limited and enumerated powers, one might have a society in which social obligations outweigh market principles and property rights but in which government is unrestrained in its pursuit of its own view of the public good, i.e. in which it becomes a tyranny of virtue.

The covenant paradigm as replacement for contract

Elazar is certainly not the only contemporary theorist to discuss the covenantal paradigm. Michael Walzer has famously argued that covenantal thought provided the basis for modern egalitarian revolutionary ideology.⁶⁴ In addition, Aaron Wildavsky has written on the implications of covenant for political regime type and leadership.⁶⁵ Jean Bethke Elshtain, Barbara Allen, and Adela Cortina have also applied the covenant/contract dichotomy to contemporary social and political issues. Like Elazar, they describe covenant as an agreement that emphasizes community and mutual obligations, while contract represents relationships based upon individual interests and exchange value.⁶⁶ In the field of jurisprudence, Janet Moore makes a

similar distinction between covenant and contract. Moore constructs a social theory on covenantal grounds, clearly distinguished from the contractual model. Covenants, unlike contracts, “require that liberalism surrender not only the myth of the atomistic individual, but, simultaneously, her untrammelled freedom to pursue her subjectively chosen ends.”⁶⁷ Moore, like Elazar, distinguishes between the absolute autonomy of moral choice in liberal theory and the substantive ethical requirements of the covenantal perspective. Responding to the charge that membership in the Ku Klux Klan could be covenantal, Moore points to the limited realm of ethical choices available within the paradigm, arguing that covenants carry with them certain ethical assumptions. Covenantal agreements occur on the basis of “a vision of justice as universal dignity that reveals, and seeks to revolutionize, patterns of exclusion and domination.”⁶⁸

Moore’s connection of covenant and feminism is telling given the relationship between covenant as paradigm and ontological egalitarianism in general, a point to be discussed in more detail below. Covenant appeals to the capabilities of individuals to make and keep moral commitments. It requires a belief in the capabilities of all social actors to hearken to the terms of the covenant. Exclusion from that act, based solely on ontological qualities like gender or race, violates the very nature of covenanting altogether.

David Held also relies upon covenantal language to describe his social democratic view of development. In his recent work, *Global Covenant: The Social Democratic Alternative to the Washington Consensus*, Held argues for a new international system that addresses contemporary economic and security crises.⁶⁹ Held’s “thick” conception of covenant emphasizes the benefits of global markets but also the necessity for inclusive domestic economic systems that reduce poverty and broadly distribute these benefits. Held’s description of the synthesis of freedom and obligations is profoundly covenantal rather than contractual. The goals of the compact, he writes, “must be pursued while ensuring that different countries have the freedom they need to experiment with their own investment strategies and resources within a legal convention that binds states to basic standards.”⁷⁰ Held also argues for a federalist approach to governance, one he calls “multicentric governance,” in which local, national, and global institutions interact to achieve the provision of public goods.⁷¹

The use of covenantal language and the covenant/contract distinction can also be found in the language of activists and policy-makers and in international agreements. The European Social Charter was designed to secure “the enjoyment of social rights” for populations of member states of the Council of Europe.⁷² Like Held, Kofi Annan has called for a “global compact” to bring together civil society actors, including labor organizations, corporations, and the United Nations, for the purpose of protecting human rights, workers, and the environment. As John Ruggie has noted, this is a voluntary initiative, one that does not replace the need for action by states. However, given the pace of globalization and the inability of many

states to keep up with the need for new regulation, it is a necessary supplement to such action.⁷³ The EU used the language of charter to describe its list of social rights and protections, specifically distinguishing these rights as necessary to limit the effects of the (contractual) single market.⁷⁴ J. Ronald Engel, who, along with Mikhail Gorbachev, is one of the central figures within the Earth Charter movement, relies extensively on covenant as a metaphor that can describe a new vision of global ethics. He also finds it noteworthy that a significant number of environmental agreements or calls for international cooperation have relied on this term.⁷⁵ The term is employed quite often by environmentalists, members of the Green Party, or other like-minded organizations to describe agreements that seek to create policies that will lead to sustainable development and just forms of economic growth.⁷⁶ The Dutch government, which was also involved in the development of the Earth Charter, uses the term *covenant* to describe agreements between national and local environmental regulators, corporations, the agricultural sector, and individuals to reduce greenhouse gas emissions and create more environmentally sound methods of operation.⁷⁷ In his inaugural address, Nelson Mandela relied upon the language of covenant,⁷⁸ while John W. De Gruchy and David Stevens have applied the contract/covenant distinction to the activities of the Truth and Reconciliation Commission in South Africa and the Irish peace process respectively.⁷⁹

In the US, liberals like Woodrow Wilson also relied on covenantal language to describe a normative vision for international relations.⁸⁰ Bruce Babbitt, the Secretary of the Interior in the Clinton Administration, used covenantal language to describe his own policy agenda. Speaking in defense of the 1973 Endangered Species Act, Babbitt appealed to the covenant spoken of in the book of Genesis, interpreting its message in terms of stewardship or dominion rather than exploitation and domination. The latter terms Babbitt associates with the interest-orientation of contract.⁸¹ Al Gore used similar language to describe his own environmental policy agenda.⁸²

Many agreements in international law are termed covenants, stressing moral qualities more than legal ones.⁸³ Many of these treaties have the status of "soft law" and thus do not have the force of domestically applicable law; yet they provide goals which signatory states have committed to achieve. Others, however, have created legal obligations for state parties. Among these are two fundamentally important documents that cover procedural and substantive spheres, both of which are necessary in a covenantal framework: the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*.

Covenant's attractiveness as a replacement for contract is evident in a number of other fields as well, lending credence to covenant's paradigmatic claims. As the contractual paradigm has fallen into greater disfavor, the covenantal paradigm is increasingly taking its place. Many physicians and bioethicists have turned to covenant to replace the contractual model in medicine, a field in which the distinction between the two may literally be a

matter of life or death. In an article in the *Journal of the American Medical Association (JAMA)*, a group of physicians published a covenantal manifesto admonishing physicians to eschew materialistic self-interest and to “act as advocates for the sick wherever their welfare is threatened and for their health at all times.”⁸⁴ John J. Ring, a former president of the American Medical Association, believes it was the most important article ever printed in *JAMA*. Ring writes: “It strikes to the very heart of our professional being and to the core of our relationship with those we serve.”⁸⁵

In the field of social work and sociology, contractual theory has been woefully inadequate in describing social relations either empirically or normatively. John O’Neill has written an attack on liberal social policy entitled *The Missing Child in Liberal Theory: Towards a Covenant Theory of Family, Community, Welfare and the Civic State*.⁸⁶ O’Neill argues that liberal policy is atomistic and cannot account for the moral requirements of a society to provide for its most vulnerable citizens. Pamela Miller, a professor of social work, proposes a covenantal model for professional relationships in that field, specifically opposing it to the contract model.⁸⁷ She argues that contractual models promote minimal efforts by professionals in treatment relationships as well as the legalization of those relationships. Covenants, in contrast, focus on the centrality of obligations, trust, and long-term commitment.⁸⁸ Walter Brueggemann has also outlined the possibilities for a new normative sociology that relies on covenantal premises.⁸⁹ And in the field of family law, Margaret Brinig makes a distinction between the instrumental rationality of contractual jurisprudence in the area of divorce, which appears to have contributed to the feminization of poverty, and covenantal relationships that go beyond this narrow perspective to develop and sustain a higher degree of protections for women and children.⁹⁰

This is not to say that the policies advocated in these documents are uncontroversial or even beneficial in all cases. Rather, they serve to illustrate the way institutions, scholars, and activists in numerous fields have begun to rely upon the covenant/contract distinction to communicate a need to transcend the realm of interests – narrowly understood, in order to protect certain spheres of social life from the vagaries of the market (e.g. the Social Charter) or the state (e.g. the Covenant on Civil and Political Rights’ protections of fundamental liberties).

Despite their theopolitical origins, covenants are not parochially confined to one religious group or geographic region, as the illustrations above show. On the contrary, as Elazar points out, covenantal theory as it appeared in Jewish, and then Christian, social theory was particularly successful in regions where a pre-Christian oath culture already existed. Examples of this phenomenon were found predominantly in parts of Germany, Holland, Switzerland, the Scandinavian countries, and East Anglia and Scotland in Britain.⁹¹ Because of a political culture amenable to covenant as a means of social organization, these regions were uniquely affected by the social consequences of the Reformation. As Elazar argues, the Reformation was the

primary vehicle for transporting covenantal theory into the modern period. The implications of this movement were enormous, representing not just a theological perspective, but a wholly new political ontology. During this period, the “individual” emerged, a necessary step on the path to individual rights. Major steps toward creating the modern federal covenantal commonwealth were taken during this period as well. The question of how such an order arose out of the hierarchy of the medieval period may shed light on what is necessary to preserve what is best in liberalism.

Covenant and the theopolitical origins of liberal practice

Contemporary liberal international thinkers rightly believe that the increasing ease with which ideas can be transferred from nation to nation is a means of undermining hierarchical and oppressive regimes and practices. This was no less true in the fifteenth century.⁹² While the Renaissance is noted for its renewed attentions to classical Greco-Roman texts, there was another current of scholarly activity that would prove just as important: the beginnings of textual critical methods by Renaissance scholars and the study of the Tanach and other Jewish texts in Hebrew and Aramaic. This fascination with religious texts sparked a theological revolution that would eventually lead to political revolutions in countries throughout Europe. The study of these texts in their original languages would continue to have an influence on theology, philosophy, politics, and even science for hundreds of years, as evidenced by the Christian Hebraism of Newton, Locke, and others involved in the transition toward modernity.

Thinkers like Machiavelli are known for their love of republican virtue and their desire to revive the glory and communal spirit of the Roman Republic. Contemporary scholars, such as J. G. A. Pocock and Robert Putnam, stress the importance of the Renaissance and the civic virtue implicit in the classical republican mode of thought. But the scope of their work can be misleading if not examined carefully. One can plausibly argue that modern Western law (including international law) and liberal political regimes are the result of a mixture of Jewish and classical republican thought into a remarkable synthesis.⁹³ Rather than emphasizing the conflict between Athens (or Rome) and Jerusalem, the ways in which these disparate traditions were united deserves more attention than it has received.

The primary element uniting the late Renaissance with the Reformation – and thus with its revolutionary consequences – is this commitment to scholarly study of Jewish thought. As Peter Gay and John Garraty note, the new attention to original religious texts in the Renaissance led to comparisons of the biblical narrative with contemporary religious practices. The gap between the two led some scholars to conclude that the biblical texts provided a model for how the “Church could be stripped of the vain accretions of centuries and restored to its ancient purity and simplicity.”⁹⁴ These “accretions” included the development of a hierarchical structure of ecclesi-

astical power and the separation of clergy and laity within the contemporary Church, for which there appeared to be little biblical justification.⁹⁵ In addition, northern Italians were witnesses to a new (or revived) model of church-state relationship, one that arose within the cities of this region. As Robert Putnam points out, this was not a period of virulent anti-clericalism; piety and devotion to the Church continued to be pervasive in northern Italy. However, relative to other parts of the Catholic world, power was dispersed among the laity and the priest who, far from being a religious potentate, was seen as a servant called to meet the spiritual needs of the parishioners.⁹⁶

The effects of this line of research went beyond abstract theology into the realms of ecclesiology and church governance as well. For example, Elazar sees a direct link between the “Jewish congregational compacts” Christian scholars found discussed in these texts and the congregationalism that became the basis of church organization among some Reformed denominations.⁹⁷ Additionally, many Christian scholars, animated by the new spirit of textual criticism, studied the Tanach, the Talmud, the Midrash, and other texts with Jewish rabbinical authorities. They undoubtedly noted that when the writer of the New Testament book of Hebrews exhorts the pious not to forsake meeting together, he uses the Greek *episunagogen*.⁹⁸ The form of church governance implied by the practice of those engaged in “synagoguing” looked nothing like the structure of the medieval church. It implied rather the need for an institutional repudiation of organic and hierarchical modes of worship and a return to a more covenantal form such as that found in the Jewish tradition.⁹⁹

The Renaissance gave birth to these Christian Hebraists who revived the Jewish approach to church governance and turned the attention of Christendom to the Jewish texts. These texts were widely available in northern Italy. The Talmud and the Hebrew Bible were published in great numbers both in Mantua and Venice by the 1480s. In 1506, Johannes Reuchlin, perhaps the major figure of the German Renaissance¹⁰⁰ and avid student of the Jewish kabbalah, published *Concerning the Rudiments of Hebrew*. This “turning” provided the intellectual basis for justifying, in the long run, what Luther began in 1517 at Wittenberg. The effects on church governance, however, were felt more profoundly by those churches influenced later by Ulrich Zwingli, Heinrich Bullinger, John Calvin, and Philip Melancton, the latter of whom had been Reuchlin’s pupil. In the minds of the reformers, current ecclesiastical practice could not be justified by the early texts of Christendom. A complete transformation of governance, they believed, was needed to secure the spiritual well-being of the Christian church. But this reform was not to remain solely ecclesiastical for long. In a striking twist on, and repudiation of, Augustinian logic, reformers reasoned that if a (comparatively) horizontal and consensual structure of governance was appropriate for the city of God, how much more so should it be for the city of Man? In practice, these reforms had revolutionary consequences.

The sanctification of politics

In contrast to the monastic ideal of Catholicism, reformers gave a new value to the mundane. Weber notes that the idea of the calling, once preserved for those who took orders in the Church, was now applied to all who did God's will, regardless of profession. A common critique of liberalism made by realists, from Weber to Morgenthau, is that liberal thought misunderstands the nature of politics. Politics, say realists, is the realm of man, not of God. It involves choices that may divide conscience and prudence on occasions. But Swiss reformers, taking their cues from Deuteronomy rather than the Beatitudes, saw politics very differently. Just as in biblical Israel, they believed leaders were ordained by God to promote a godly civil order. The same was true of contemporary political figures. Far from being the most profane of occupations, politics was a holy enterprise through which the dominion mandate could be carried out. Calvin saw it as a most holy profession, noting that without a well-ordered polity, the church could not carry out its spiritual responsibilities.¹⁰¹

By baptizing the political, reformers created the basis for what was to become the best and the worst of liberal politics. The optimism of reform produced higher expectations of political actors, but it also created the potential for blindness concerning what was actually possible. Connected as it was to a pessimistic view of human nature, covenantal theory in its origins was suspicious of the idea of unitary power. That is why the concept of federal, divided, and limited power is inherent in covenantal politics. However, once the pessimism toward, and mistrust of, unregulated power was removed, the potential for succumbing to unrealistic political expectations became an unfortunate reality.

In the beginning, however, hopes for reform were relatively restrained. One strives in vain to find justification in Calvin's works for the sort of rebellions that would take place in his name in Scotland or in France. Ever wary of the antinomianism of the Anabaptists and the horrible results of the peasant revolt in Germany, he was very circumspect about political applications of the reform he advocated. Indeed, in the four volumes of the *Institutes*, there is but one short paragraph in Book IV on the subject, known now as the "doctrine of lesser magistrates." Calvin allows that if a ruler becomes tyrannical *and* acts unlawfully, a lesser magistrate elected or appointed to legitimate political power has the duty to resist these acts. Tyranny by itself is not enough; even acts that are patently immoral and ungodly do not justify removal.

For when popular magistrates have been appointed to curb the tyranny of kings (as the Ephori, who were opposed to kings among the Spartans, or Tribunes of the people to consuls among the Romans, or Demarchs to the senate among the Athenians . . .) [s]o far am I from forbidding these officially to check the undue license of kings, that if they connive at

kings when they tyrannize and insult over the humbler of the people, I affirm that their dissimulation is not free from nefarious perfidy, because they fraudulently betray the liberty of the people, while knowing that, by the ordinance of God, they are its appointed guardians.¹⁰²

This passage gives, at most, tepid support to any form of revolutionary fervor. Yet one can find here the notion of divided power so crucial to liberalism. In fact, just a few pages before this passage, Calvin discusses different regime types, and does so in a way similar to Aristotle's comparative survey of political regimes in the *Politics*. This is not surprising, as theologians had been synthesizing classical and biblical literature for centuries, seeing certain classical writers as falling within the traditions of righteous precursors to Christianity. For example, Calvin's first work was a commentary on Seneca, and one can see from the passage above that his example of lesser magistrates is drawn from Sparta. Additionally, Melancthon wrote a commentary on Aristotle's *Politics*. But the reformers' views of human behavior is much darker than that of Aristotle. Human reason is infected with sin and vice. It cannot be wholly trusted. Nor can any one person be trusted with absolute power, even in an ideally constructed regime.

Owing, therefore, to the vices or defects of men, it is safer and more tolerable when several bear rule, that they may thus mutually assist, instruct, and admonish each other, and anyone be disposed to go too far, the others are censors and masters to curb his excess. This has already been proven by experience, and confirmed also by the authority of the Lord himself, when he established an aristocracy bordering on popular government among the Israelites, keeping them under that as the best form, until he exhibited an image of the Messiah in David.¹⁰³

It was left to those who studied with Calvin in Geneva, John Knox, Theodore Beza, and others, to apply these doctrines to politics more directly. And it would be their disciples – those whom Michael Walzer considers the originators and agents of revolutionary change, paving the way for modernity¹⁰⁴ – who would dramatically alter the political landscape of Europe.

Calvinism as revolutionary international ideology

Calvin expressly admonishes the Huguenots against rebellion, but by the 1570s the *Vindiciae Contra Tyrannos*, penned by "Junius Brutus," disseminated the concept of lawful resistance in France. As Quentin Skinner points out, this was the first articulation of a modern theory of resistance.¹⁰⁵ John Knox, who wrote in 1556 that Geneva was "the maist perfyte schoole of Chryst that ever was in the erth since the dayis of the Apostillis," carried these doctrines to Scotland where he demanded power be shared between queen and nobility.¹⁰⁶

In France and parts of the Netherlands, Calvinism clearly took on political and military characteristics in the form of active resistance to political authorities. Horizontal ecclesiastical structures were easily converted into effective political organizations that targeted Catholic monarchs of both nations. In the Netherlands, Calvinists aided William of Orange in his uprising against Philip II. One of the most widely distributed pamphlets justifying resistance to the Spanish was written by “Eusebius Montanus,” who argued that William was just the sort of “lesser magistrate” anticipated by Calvin’s theory.¹⁰⁷ In France, however, the Calvinists met with defeat. Many were killed while others were expelled and subsequently fled to England or the Netherlands.

The English Puritans also relied heavily upon reformed doctrines to oppose any notion of absolute divine right of the king to rule and to justify their revolution against Charles I. Because they believed government should be based on consent (apparently construed very narrowly), they found the divine right theory of government unacceptable. Instead, they viewed Parliament as the legitimate source of political authority. This development led to one of the internal contradictions of the Puritan revolution that Locke himself had to deal with much later in his own political theory. Given the covenantal emphasis on consent and the ontological equality of covenant-makers, how could suffrage (and, more generally, political rights) be limited in a covenantal state? These limitations made little sense covenantally speaking, and they highlight the conflict between the organic and covenantal visions of political authority, a conflict that would create strong divisions of opinion among radical Protestants revolutionaries in seventeenth century England.

Covenant as ontological egalitarianism

From a covenantal perspective, limitations on individual liberty or political participation could only be justified by an appeal to organic tradition. But these limitations could not withstand a revolution justified on covenantal grounds. In England, egalitarian groups like the Levellers and the Diggers demanded an expansion of suffrage. Revolutionary demands arose from the ranks of the New Model Army during the Putney debates in 1647. Jacqueline Stevens points out that Locke’s later work makes much more sense if we understand him less “as a more polite Robert Nozick” and more as the “colleague of Leveller John Wildman, which he was.”¹⁰⁸ Men like Wildman, who wrote up the army’s demands for manhood suffrage, sought other policies that flew in the face of organic privilege. John Lilburne demanded that electoral apportionment be commensurate with taxation, a policy that would vastly undermine aristocratic power. In addition, Levellers demanded a government based on consent rather than on privilege. Political theorist George Kateb, looking affirmatively at the rise of individualism, sees groups like the Levellers playing the central role in developing the modern conception of rights. He argues that it was this group that “practically originated the modern theory of rights in almost its entirety.”¹⁰⁹

At the same time, as historian Lawrence Stone observes, individualism, which provides the ontological foundation for liberalism, began to spread in England and in the American colonies.¹¹⁰ Once again, the logic of the Reformation worked itself out over time to produce unintended consequences. If the beginnings of the movement were focused upon the right of congregations to worship as they chose, by the mid-seventeenth century it was just as much about the rights of individuals to follow the dictates of conscience alone. In 1646, we find a leader of the Levellers stating, "To every individual in nature is given an individual property by nature, not to be invaded or usurped by any. . . . For by natural birth all men are equally and alike born to like propriety, liberty and freedom."¹¹¹ Stone observes that Locke uses strikingly similar language to explain the state of nature and the place of the individual in it:

All men are naturally in . . . a state of perfect freedom to order their actions and dispose of their possessions and persons as they see fit, *within the bounds of the law of nature*, without asking leave or depending upon the will of any other man.¹¹²

There was always a strong spirit of individualistic introspection among Calvinists who searched their souls in order to determine their eternal state. The same was true of seventeenth century English and American Puritans. It was at this time, for example, that the diary became such an important literary genre.¹¹³

The men of the army were not the only ones affected by the implications of the revolutionary philosophy. The first hints of English feminism, encouraged by a new reading of scriptural texts and the appeal to ontological equality of covenantal theory, appear in the mid-seventeenth century as well. By the early 1640s, in some independent churches, women were participating in church debates, voting, speaking prophetically, and preaching.¹¹⁴ As was the case with Puritanism as a whole, what began as church reform quickly made its way into politics.¹¹⁵ In 1642, a group of several hundred women petitioned Parliament for economic relief from the financial hardships prevalent in this period of revolution. When they were rebuffed by the Duke of Richmond, they attacked him outright and broke his staff of office.¹¹⁶ In 1649, a large crowd of women demanded that Leveller leaders, who had been imprisoned by Parliament, be released. What is interesting about this scenario is that the reply of Parliament – that the government had already dealt with their husbands and that should prove sufficient – was unacceptable to these women on a class basis. The beginnings of gender consciousness, arising out of the implications of ontic equality, had begun to show itself.¹¹⁷ John Lilburne stated in 1646:

All and every particular man and woman, that ever breathed in the world, are by nature all equal and alike in their power, dignity, authority and majesty, none of them having (by nature) any authority, dominion or magisterial power one over or above another.¹¹⁸

Further evidence for this connection is found in the way women relied upon biblical literature and historical examples in order to outline the political implications of this new ontology. They argued that they had an equal right to the enjoyment of “Christ in his own laws” and cited the role of Esther as savior of the Jewish people.¹¹⁹ But perhaps the most telling example of the use of the religious imagery of covenanting as a means of raising the status of women was that of taking oaths of loyalty to the Parliamentary cause, which Patricia Crawford and Sara Mendelson refer to as assertions by women of “covenantal citizenship.”¹²⁰

This nascent women’s movement was not to succeed in the seventeenth century. Whatever their status in theory, women *qua* women were given no separate *political* consideration by the exclusively male revolutionary leadership, a phenomenon that prefigured the complicated relationship between women’s movements and Marxist movements in the twentieth century. After the restoration of the Stuarts, tradition began to encroach upon the ground gained by these radical ideas. Over time, liberal thinkers were also less inclusive in the immediate extension of political rights to women. In their responses to Filmer’s *Patriarcha*, both Locke and his contemporary James Tyrell were much more careful about such extensions. Tyrell, in fact, precludes them outright.¹²¹

Two more centuries would pass before the movement gained serious momentum again. But this period is important for several reasons. First, the rise of radical populist movements during the revolutionary period highlights the relationship between the ontic implications of covenant doctrines as they appear in politics and modern liberal theory as it would eventually emerge. What is more important than the individual accomplishments of any class during this period is that the terms of the political debate were radically shifted in a way that would have enormous consequences for the future. The Puritan period was most decidedly not a comprehensive moment of liberation for women or, for that matter, poor men. Over time, however, the radical ideological components of Puritanism, particularly the ontological equality implied by the structure of covenants, became the basis for a dialectical questioning of the subordination of women.¹²² As Dawn Keetley and John Pettegrew have written, “early feminists drew their power to challenge established religion and the sexual hierarchies it instituted from Puritanism itself.”¹²³

Once the ideal of ontic equality began to penetrate the intellectual milieu, its implications were to be far reaching – touching on issues of gender, class, race, and nationality. During this early period, the individual was part of a vast network of social institutions which entailed obligations and duties. There still existed a belief in natural law as a basis of obligations and rights. Once the bonds of this network were loosened, and natural law became an oppressive anachronism, it was a short distance intellectually to the modern possessive individual and the self-interested bourgeois.

The moral necessity of limiting power

Another reason this historical overview is important is that the demise of these political movements illustrates the problem of integrating covenantal politics with organic or traditional politics. But this problem presented American covenanters with an incredible opportunity. Against the background of organic privilege, the colonists of New England believed that rationality itself, as far as politics was concerned, was commensurate with consent. The original American Puritan colonies were founded during the reign of Charles I, and these colonies continued to grow rapidly after the end of his reign. As the limitations of what was possible in England became clearer, Puritans sought an environment where the accretions of tradition would not prove to be an obstacle to the establishment of a rational "godly civil order." At the same time, the patterns of associations inherent in the creation of this order mitigated against the isolation of the individual and the hypertrophy of the state that are always possible outcomes of radical egalitarianism. This was certainly one of the primary points Tocqueville wished to communicate to his fellow Frenchmen through his emphasis on the Puritan origins of American social theory.

Because Puritans were a minority in English society, and certainly because the majority of England's inhabitants did not wish to be reformed, the Puritan revolution was a failure as a political revolution. But its influence was felt in the way Puritans dealt with the problem of governance. Their political organization was based upon a larger social theory that was, as Tocqueville stated, the result of a paradox. The order found in the social and religious lives of Puritans allowed for political experimentation and innovation.

Thus, in the moral world everything is classed, adapted, decided, and foreseen; in the political world everything is agitated, uncertain, and disputed: in the one is a passive, though a voluntary, obedience; in the other an independence scornful of experience and jealous of authority.¹²⁴

As a result of both intellectual belief and practical circumstances of persecution, American Puritans developed a belief in federal or covenantal authority. Political authority had to involve consensual agreement and divided powers for, as Calvin insisted, unitary power was too great a temptation for any ruler with corrupted reason. Both of these characteristics, noted by Tocqueville, contributed to the happiness, comparatively speaking, of New England. The reasoning behind the arrangement was outlined by John Cotton in his tract "Limitation of Government":

Let all the world learn to give mortall men no greater power than they are content they shall use, for use it they will: and unless they be better taught of God, they will use it ever and anon.... It is necessary therefore, that all power that is on earth be limited, Church-power or

other. . . . It is counted a matter of danger to the State to limit Prerogatives; but it is a further danger not to have them limited. . . . It is therefore fit for every man to be studious of the bounds which the Lord hath set: *and for the People, in whom fundamentally all power lyes, to give as much power as God in his word gives to men.*¹²⁵

Unlike Hobbes, Cotton believes the solution to man's propensity to do evil is not to create a Leviathan. Instead, because rulers are subject to corruption, their power must be limited and checked. One can assume, as did Kant, that such remedies apply at the international as well as at the domestic levels. The idea of the world-state, an all-powerful global hegemonic power, would be as abhorrent to Cotton as it was to Kant.

What is remarkable about Cotton's statement is that it was written half a century before Locke's work on civil government, dispelling the familiar historical dictum: *Locke et preterea nihil*. But as numerous scholars of Puritanism show, American Puritans were not afraid to use power. What separated them from other political practitioners was their insistence on the exercise of power within predetermined boundaries. This emphasis flew in the face of historical perceptions of power from Plato to Hobbes – that rational politics meant unitary rule. Within the framework of covenantal politics, power was to be divided and based upon consent. In ecclesiastical terms, this entailed presbyterian or congregational governance; in politics, it entailed covenants or compacts in which participants subordinated their interests to the higher moral purpose of developing the godly civil order.

The exact specifications of such an order were, of course, more difficult to work out in practice, a fact that at first appeared troublesome but actually over time became something of a blessing for New Englanders. Much has been written about the various approaches used to limit suffrage in these colonies to the pious, as well as the difficulty of determining such a qualification. Different understandings of how to achieve the common good led to different understandings of piety. These distinctions, in turn, led to the establishment of other communities. The migrations of Anne Hutchinson and Roger Williams are but two examples of this pattern. As these distinct visions began to emerge, a new level of tolerance began to spread among them as a matter of necessity.

The rise of the individual formed one pole in the dialectical development of the autonomous liberal conscience. The other was the ideal of multiple jurisdictions within which one could exercise conscience communally. The alternative to this was the highly impractical creation of a nation of Thoreaus searching for solitude and total autonomy. The concept of multiple jurisdictions was one solution to the perennial problem of how to balance the needs of the one and the many in politics. By the time of the founding, and certainly by the time Tocqueville visited America, this dialectic had produced a kind of New England version of the Westphalian response to the ideological conflicts of the Thirty Years War.

Whereas the revolution in England unfolded within a centralized political system, the separate colonies had the benefit of decentralized authority. This point is important for two reasons. First, this “administrative decentralization,” as Tocqueville called it, survived into the creation of the United States. In this sense, the revolution in England had more in common with that of France than America. Tocqueville goes to great lengths, in both *Democracy in America* and in *The Old Regime and the French Revolution*, to proclaim that centralization of administration is harmful. He states that administrative centralization, like that seen under Louis XIV, “may contribute admirably to the transient greatness of a man, but it can not insure the durable prosperity of a nation.”¹²⁶ In the case of France, centralization led to the ability of revolutionary leaders in Paris to engage in the Terror. But he finds the United States in a very different position with administrative powers divided across multiple jurisdictions. America has centralization of government, something without which a country cannot prosper. Centralization entails granting powers with national import to a central, national authority. Tocqueville is not specific as to what these are, mentioning only “the enactment of its general laws and the maintenance of its foreign relations.”¹²⁷ The Constitutional framers were, however, very specific, citing foreign trade, interstate commerce, and providing for the national defense, as being among enumerated national powers. Madison made this principle a key part of his argument for federal rule, referring to “great and aggregate interests being referred to the national, the local and particular to the State legislatures.”¹²⁸ Within its proper sphere, government must be given sufficient power to function effectively; but its sphere must be limited. One could hardly find a better definition of a covenantal concept of political authority.

During this pre-liberal period, the relationships between state and civil society were created. For the first time, there emerged a political theory that asserted that government was simply another form of association that arose out of civil society. The state was not considered to be transcendent, but constructed by ordinary people to serve their needs, an idea Locke and Tocqueville later incorporated into their theories of the good polity. The relationships between individual and community that balanced rights, interests, and obligations within a larger ethical framework were largely defined. The covenantal, or properly federal, solution to problems of social organization was utilized in different ways and in different countries touched by these ideas. At this early stage, theory and theology were still closely intertwined. The process of rationalization had not yet occurred. This was a delicate project. A rational justification of the covenantal approach had to describe in universal rather than parochial terms what was superior about the principles of federalism while not losing sight of the ethical and political requirements of statecraft, the Scylla and Charybdis with which liberal international relations theory is still struggling. The spirit of science that arose at the end of this proto-liberal period set off a search for such principles and provided a sense of optimism that they could be found.

The transformation of theology into secular, universalizable principles was a necessary part of the evolution of the international system. Modern thinkers were looking for principles that would provide guidance for all peoples, not just Christian Europeans. Just as there was no Christian physics or Christian chemistry, there should be no culturally specific science of politics or ethics. As the next chapter shows, these attempts provide one of the brightest moments in the history of political philosophy. Yet they could not succeed in the long run, because the brilliant political and ethical formulations they provided were not accompanied by an epistemology that could support them.

2 The Enlightenment and the Lockean transition

The previous chapter outlined the nature of the covenantal paradigm and how it differs from contract. In addition, it examined the way in which covenantal thought was integrated into social theory through the Reformational revival of a Jewish, rather than Greek, conception of the good life. This conception synthesized commerce and the good in ways that would have been unrecognizable to many classical Greek thinkers, who idealized the *vita contemplativa*.

This chapter explains how covenant was pushed to the margins of social thought during the Enlightenment. To show how this philosophical evolution occurred, I begin with a discussion of the relationship between the metaphysical and epistemic cultural matrix that led to modern science. I then discuss Newton and the origins of the Enlightenment. I discuss Locke's thought as well, emphasizing the way that Locke integrated ethics and interests. Following this, I examine the separation of ethics and interests by later liberal theorists and Kant's response to this separation, a response I argue that not only failed to achieve its objective, but drove a wider wedge between epistemology and ethics.

Newton, Locke, and the origins of Enlightenment rationality

The epistemic realism of the period just prior to the Enlightenment appears naïve in the era of postmodernism. The belief that phenomena in their essences can be known through human perception was a hallmark of the ancient and medieval periods, and fell by the wayside with the advent of Enlightenment empiricism. Hume argued, for example, that belief in the uniformity and intelligibility of phenomena is not obvious or necessary. Yet the metaphysical realism of the medieval period provided an important and perhaps necessary epistemological basis for the continuation of scientific activity. Indeed, the development of a *self-sustaining* tradition of science began in the medieval period, continuing through the Renaissance and Reformation. The Enlightenment project of making all thought scientific occurred in an intellectual culture in which science had already prevailed as

an independent activity. While John Locke's role in the development of the Enlightenment and liberalism is well known, the role Isaac Newton played in these developments is less familiar.

Newton was relatively unconcerned with matters of epistemology and metaphysics per se. Despite the availability of other historical options, Newton simply assumed the intelligibility and underlying uniformity of phenomena and proceeded to work upon that basis. In 1687, Newton's *Principia Mathematica Philosophiae Naturalis* heralded the discovery of laws uniting the celestial and terrestrial realms. The influence of this work on the rise of modernity is difficult to overestimate. The inverse square law of gravity served as a model for the way social inquiry ought to be done: orderly, rational, ateleological, and, most importantly, universal. One hundred years later, for example, Immanuel Kant would become obsessed with Newton's ability to summarize universal motion with one elegant equation. Early in his career, Kant had rejected much of Newton's thought; however, by the time he wrote his essay *The Spin-Cycle* in 1754, his views had changed completely. Attempting to imitate Newton's successes in physics and politics, Kant, relying upon a priori assumptions, assured readers of his *Universal Natural History* that intellectuals on Mercury would have to be inferior to even the lowest intellect on Earth who, in turn, would be far inferior to those on Saturn.¹ As I discuss further on p. 67, these examples reflect the difficulty Kant's a priori approach presented, not just for cosmology, but for social theory as well.

The standard narrative of the Enlightenment transition is usually as follows: Newton developed a purely mechanistic, secular physics through the use of mathematics and observation detached from the metaphysics and natural theology that had hindered progress in the medieval period. Later thinkers were able to make progress in other fields because they were able to build upon previous work using this same approach. Thus the modern world was born by embracing Newton's methodology and by leaving the darker world of religion and metaphysics behind.

John Henry notes that D'Alembert saw Newton's work as a synthesis of Baconian empiricism and Cartesian mathematics, one which D'Alembert believed had given "philosophy a form which apparently it is to keep."² Voltaire argued for the superiority of Newton's science over that of Descartes, communicating as well the epistemic optimism that appeared to be justified by Newton's achievements to thinkers on the Continent.³ Philosophers of this period were also fascinated by the way Newton described the physical reality of white light in his *Opticks*, published in 1704. Newton insisted that the belief in the special, spiritual qualities of white light was nonsense. The phenomenon was simply made up of an aggregation of primary colors. His rational debunking of traditional prejudices in the sciences seemed to be just what was needed for an inquiry into human affairs as well. Henry observes that the *Opticks* may have encouraged later readers to think that Newton himself believed that his methods could and should

apply to investigations of morality: "In the closing paragraph ... Newton wrote: 'And if natural Philosophy in all its Parts, by pursuing this Method, shall at length be perfected, the Bounds of Moral Philosophy will be also enlarged.'"⁴

Locke, a contemporary and friend of Newton's and an avid reader of his works, applied a scientific approach – more akin to Newton's than to Kant's – to human affairs, more specifically to politics. His *Two Treatises on Civil Government* appeared in 1690; his work on epistemology, *Essay Concerning Human Understanding*, was published that same year. This latter work was celebrated as a model of reasonable inquiry, pushing aside all the complicated elements of arational thought in favor of empirical clarity. Of the two, Locke's *Essay*, rather than the political works, tended to be most influential on American readers during the founding period.⁵

John Garraty and Peter Gay have argued that the Enlightenment as a movement largely took its intellectual bearings from these two theorists.⁶ However, those who came after Newton and Locke saw little reason to incorporate their theological attachments into applications of the new science,⁷ and in many ways, the story of that transition is the story of the transition of liberalism itself from its classical to modern formulations. Had it been possible for Newton to read about himself in future accounts of scientific and philosophical progress, he surely would have been surprised. The rationalistic and mechanistic interpretation of Newton's work is at odds with the degree to which he was epistemologically and metaphysically committed to a very non-mechanistic perspective. Stanley Jaki calls this commitment "the instinctive middle." He differs from D'Alembert's account of Newtonian thought as a synthesis of Bacon and Descartes. Instead, he contends that Newton's gift was the ability to ignore the theoretical consequences of these two epistemic extremes of the day: Cartesian rationalism, with its dangerous attachment to innate ideas, and Baconian empiricism, that led to the exaggerated skepticism arguably found in David Hume's epistemology.⁸

The fact that Newton wrote more works on theology (and alchemy) than he did on physics lends credence to the idea that natural theology played an important role in his scientific work. Judaism had a tremendous effect on Newton's theology and on his epistemology.⁹ He was an avid Hebraist who taught himself the language in order to be able to translate the Tanach on his own. It is also likely that his love of the Tanach in particular influenced his belief in the Arian version of monotheism. Hebraic studies had become quite popular in the Civil War period, and a number of Newton's contemporaries, such as Henry More, John Locke, and Robert Boyle, also had ties to this movement. John Maynard Keynes, who came to be in possession of many of Newton's manuscripts, believed Newton to be more a follower of Maimonides than the rational mechanist the Enlightenment made him out to be.¹⁰

Newton believed that nature, history, and revelation all consistently pointed to similar truths that had to be carefully studied to be understood.

The universe was a riddle designed by God as *pantokrator* to be solved by human inquiry. Just as the inverse square law defined gravity's effects in absolute space and time, the law of nature defined our ethical responsibilities to one another. And the covenants of Judaism, those given to Noah (Newton uses the Hebrew "Noach"), Abraham, and Moses, pointed us in the direction of that law.¹¹

For Newton, covenants provided the means by which God accomplished this "tinkering" among humans. Covenantal renewal reversed, for a time, the process of corruption Newton believed to be pervasive in history. In the *Irenicum*, he wrote:

All nations were originally of the Religion comprehended in the Precepts of the sons of Noah. . . . This religion descended to Melchisekec [sic] & Job & to Abraham Isaac Jacob Moses & the Israelites & to the proselites of the gate. . . . But the Kings of the nation by degrees causing their dead ancestors to be celebrated with sacrifices praises & invocation, the religion of Noah & his sons passed into the worship of dead men & the laws of their courts of justice into the moral Philosophy of the heathens. . . .

Then Moses reformed the Israelites from those corruptions & added many new precepts to ye Moral law, writing all down in a book & imposed the whole upon the people of Israel by the covenant of circumcision, & allowed strangers of all nations to live within their gates without entring [sic] into that covenant provided they kept the Precepts of the sons of Noah.¹²

The ultimate act of intervention by God, Newton believed, would come at the covenantal renewal that comprised the end of history, the messianic millennial period marked by the second coming of Christ.

One might rightly wonder in what way Newton's epistemology is significant to a discussion of the problems of liberal international thought. The point made here is twofold. First, Newton and Locke shared a common intellectual background grounded in a complex view of both nature and society, a view rooted in a covenantal perspective that was radical for its time. It was at this juncture that science, including social science, and theology met. Jaki discusses the primary problem for science presented by Renaissance neo-Platonism, the belief that "the world was an uncreated whole and therefore a non-contingent entity."¹³ By definition, resistance to that belief, which Jaki attributes to the epistemic assumptions of natural theology, meant embracing contingency, and thus the need for "painstaking, experimental investigations," which are, in turn, the basis for contemporary science.¹⁴

Second, Newton's revolutionary ability to synthesize the rational and experimental components of science also prepared the way for the decoupling of scientific practice from its epistemic foundations. Jaki believes that

the foundations of certainty upon which Newton worked allowed him to write the first edition of the *Principia*, in which there was no direct role for natural theology, only an implied one.¹⁵ The irony was that Newton's certainty about the rationality, order, and coherence of phenomena – directly related to his theology – greatly reduced the need for God to serve as a means of explanation in scientific work. God did not direct; he merely tinkered.¹⁶

Newton's impact on the Enlightenment, and its absorption of what was considered to be the Newtonian rational mechanistic paradigm, was enormous. The writings of early international legal theorists mirror the rationalist caricature of Newton's views exactly. Passions were to be replaced by rational interest-seeking behavior conducted within the bounds of the laws of nature. The emphasis in this definition should clearly be upon the word "rational." But the narrative of liberal history is caught up in the evolution of the boundaries of rationality itself. It was not long until the epistemic foundations of Newton's work were marginalized in order to make room for Newton the rational mechanist and icon of the Enlightenment.¹⁷

Thomas Spragens, discussing the relationship between science and the rise of liberalism, categorizes moral thought that arose during the post-Newton Enlightenment period as "moral Newtonianism."¹⁸ Moral thinkers and philosophers attempted to mirror in social theory what Newton had done in physics. The rationality of moral acts was derived from the contemplation of nature and, while such thought originally had autocratic overtones, it eventually evolved through the eighteenth century into more democratic forms.

The problems with the moral Newtonians' approach are central to this premise that liberal ethical theory fails to account for the need to apply rules contextually, i.e. prudentially. Key assumptions of Newton's philosophy, assumptions that point to the difficulty of applying anything like the inverse square law to social theory, were ignored or removed. This application created an untenable goal, that of a rule-oriented social theory based on reason according to nature. This was not the *orthon logon* of Hellenic thought. When the Greeks attempted to construct a theory of the social good, they made *phronesis* a central element, recognizing the contingent element of the good in practical reason. Enlightenment scholars eschewed this approach, seeing it as unscientific and attached to metaphysics. Newton, they believed, had already shown the way beyond these parochial attachments through his equation. But nature is not clear about what constitutes the good, at least not as clear as the inverse square law is about gravity.

This lack of clarity points to inevitable contradictions inherent in the reinterpreted Newtonian rationalism of post-Enlightenment theories of ethics and politics. Over time, it became more and more difficult to defend the connections made between the rational, the natural, and the ethical. This difficulty had profound implications for domestic and international liberalism. Locke's work, and the responses to it, show why this is so.

John Locke and the rationalization of covenant

Locke is an important figure for both domestic and international liberalism because his desire to provide a rational account of political authority serves as the transition point between covenantal and contemporary contractual liberalism. Like Newton, Locke is unlikely to have recognized the caricatures of his theories that would appear in later works. This is particularly true of the understanding of interests found in the sterile formulations of utilitarians who had removed the moral boundaries implicit in his theory of politics.

Over time, the moral assumptions in Locke's theory were stripped away, leaving only the framework of self-interested behavior found in microeconomic or rational-choice theories. Locke was not the first, of course, to consider placing rationality upon a foundation of interests that could counteract humanity's irrational passions, passions that Thomas Hobbes had clearly and brilliantly explicated. Indeed, Blaise Pascal wrote of the "reglement admirable" man had managed to construct out of the opposition of his countervailing passions.¹⁹ Giambattista Vico, whose work in the early eighteenth century anticipates both the communitarian critique of liberalism and the rhetorical emphasis of postmodernism, also believed in the ability of society to transform the basest passions through the pursuit of economic interests.²⁰ And while some scholars such as Leo Strauss claim that Hobbes is the founder of liberalism, many liberal theorists look to Locke as the founder and originator of modern liberal theory, including liberal international relations theory.²¹

Hobbes did provide some of the most important theoretical foundations for Locke's work, however, and his work was critical to the secularization of covenantal thought. For this reason it makes sense to review briefly his contribution to political theory. He says a great deal in *Leviathan* (particularly in Books II and III) about natural law, which he states is "undoubtedly Gods Law," a position he shared (at least in public) with Locke. He also has much to say about covenant as the foundation for the commonwealth.

The Law of Nature and the Civill Law, contain each other, and are of equal extent. . . . The Law of Nature therefore is part of the Civill Law in all Common-wealths of the world. Reciprocally also, the Civill Law is a part of the Dictates of Nature. For Justice, that is to say, Performance of Covenant, and giving to every man his own, is a dictate of the Law of Nature. But every subject in a Common-wealth, hath covenanted to obey the Civill Law. . . . Civill, and Naturall Law are not different kinds, but different parts of Law; whereof one part being written is called Civill, the other unwritten, Naturall.²²

Natural law plays a role in Hobbes' theory but it requires the covenantal commonwealth in order to secure its benefits and protections. The natural

law of justice, which includes self-preservation as the foundation of interests, is in perfect accord with a civil law that is properly formulated. Locke accepts this important point as well. This is a very covenantal perspective. However, Hobbes, the royalist, influenced by Machiavelli as much as his own chaotic political environment, deviates severely from other elements of covenantal thought.

The most important of these deviations is found in Hobbes' reliance on the absolute authority of the state, a position that leads to all the problems of the Weberian bureaucratic nightmare. Hobbes' state becomes hierarchical in order to preserve covenant, a contradiction in terms. The natural rights of men will never be facilitated and preserved by covenanting together to hand power over to an absolute authority. Though Hobbes uses biblical examples of covenant – e.g. the Abrahamic and Mosaic covenants – that would have been very familiar to his audience, he takes them out of covenantal context. Rather than focus upon the power-limiting quality central to covenantal politics, he focuses upon the way these relationships reflect the sovereignty of God, and by implication, the need for sovereign rulers.²³ This was not the lesson Locke, the Puritans, or the American founders drew from the implications of covenant theology.

Hobbes also breaks from the covenantal tradition by relying upon a materialistic and deterministic epistemology. His focus on sensations becoming knowledge contradicts ancient and medieval beliefs that knowledge of things involved a knowledge of essences, not just surface impressions. As Spragens notes, this earlier view, one that Newton inherited, contained the idea that “forms are impressed on the mind through sensation.”²⁴ Hobbes rejected this view, as did Locke. Yet, unlike Hobbes, Locke fell back upon theology and natural law to provide a basis for moral freedom, and thus temporarily managed to avoid the consequences of empiricism's eventual unraveling of ethics.

As John Dunn has argued, the origins of Locke's reliance upon natural law are found in a kind of moderated Protestant non-conformism (Calvinism), one that emphasized the importance of covenants and the consequences of their being breached.²⁵ Locke's own father, a Puritan and his son's first teacher, fought on the side of Parliament during the Civil War. Despite his distaste for the political consequences of the revolutionary and Protectorate periods, Locke clearly absorbed the lessons of the conflict, particularly the justifications given for resistance. He also absorbed more subtle aspects of the intellectual climate in which he was raised. He believed that natural law and reason parallel one another. He defined liberty in ways similar to the Puritan divines. In addition, the reasons he gives for the need for government are strikingly similar to those found in Puritan theology. His use in the *Second Treatise* of the phrase “every man being judge in his own case” would have been very familiar to seventeenth century English readers with any kind of theological education. His language would have immediately reminded them of the pitiful state of Israel at the end of the Judges period,

as described in Judges 21:25: “In those days Israel had no king and everyone did as he saw fit.” In the *Second Treatise*, Locke explicitly quotes from Judges. He relies upon the conflict between the Israelites and the Ammonites to explain the hazards of the state of nature which, as he says, shows why individuals quit the state of nature for society.²⁶ The Israelite solution, like that proposed by Locke and his Whig brethren, was not an absolute monarchy, but rather a constitutional one with strictly limited powers established by covenantal consent.²⁷ The prohibitions and limitations placed on monarchs in Deuteronomy 17 make clear that the biblical model of monarchy was at best one of limited authority.²⁸ In addition, those limits were to be secured not only by law but by structural limitations on the monarch’s capacity to make war abroad, or worse, at home against his own people. It was just this kind of regime that Locke attempted to justify.

Locke’s political theory focused primarily on how to explain the rational foundations of government. To do so, he defined the state of nature somewhat differently from Hobbes, for whom the state of nature was a war of all against all. Locke’s concept is more beneficent, one defined by “Men living together according to reason, without a common superior on earth, without authority to judge between them.”²⁹ But while those in the state of nature are equal and free, freedom ought not to be taken for license. Rather, much like the federal liberty of Winthrop, their freedom is circumscribed by natural law:

But though this be a state of liberty, yet it is not a state of license; though man in that state have [sic] an uncontrollable liberty to dispose of his person or possessions. . . . The state of nature has a law of nature to govern it, which obliges every one; and reason, which is that law, teaches all mankind who will but consult it that, being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions; for men being all the workmanship of one omnipotent and infinitely wise Maker – all the servants of one sovereign master, sent into the world by his order, and about his business – they are his property whose workmanship they are.³⁰

Considering the blessed state one finds in nature, one might reasonably ask why any person would want to leave it in order to develop first civil society and then government. This is because the peace found in the state of nature is tenuous and unstable. Locke states that while the state of nature is good, it is not perfectly designed to deal with conflicts that may arise. The law of God is consonant with the law of nature, but God does not immediately enforce it. In order to secure property and well-being, individuals must compact together to create institutions that can enforce this law. Otherwise, one may find one’s life, liberty, or property in jeopardy. The (relative) inclusiveness of this act of compacting was a major point of contention between Locke and Filmer. Where Filmer used covenant doctrines in Genesis to

support the idea of the rights of kings, Locke believed they existed to secure the rights of all men.

The end of civil society, then, is “to avoid and remedy those inconveniences of the state of nature which necessarily follow from every man being judge in his own case by setting up a known authority to which everyone of that society may appeal upon any injury received or controversy that may arise, and which everyone of the society ought to obey.”³¹ It is from these inconveniences, or from the inconstancy of human judgment, that civil society and government serve to protect us.

While there are striking similarities between Locke and his Puritan predecessors, there are also significant differences. Where theologians were able to appeal directly to divine command, Locke dedicates himself to placing the reasonableness of faith and obedience to natural law on firmer, more scientifically appropriate foundations by appealing to interests as a means of devising a rational political theory.³² While inconstancy (the tendency to act inconsistently and imprudently in the state of nature) is not to be solved by interests, interests draw individuals into civil society, the first step in solving that vexing problem.

This shift from tradition to reason was wholly consistent with the empiricist spirit of the age. Nor was the distance between the two particularly notable. As Weber observed, there is a significant element of interest-orientation in Calvinist-Puritan theology, which, as I shall show, is based on a good deal of textual evidence from the Torah that obedience to divine commands has both transcendent and immanent advantages. Like other English Hebraists of his day, Locke was quite familiar with these texts. Indeed, they served as part of the common language of intellectual discourse of his day. Yet, as is the case with Newton, the theological assumptions that provided a framework for his thought have been, and continue to be, pushed to the margins of scholarly interpretations of his views.³³

The Lockean integration of interests and ethics in sanctified labor

There are, of course, multiple interpretations of Locke’s synthesis of interests and ethics: the “Lockian” consensus of Louis Hartz; the capitalist interpretation of C. B. MacPherson; and the (very different) neo-Puritan interpretations of John Dunn and Joshua Foa Dienstag. After rejecting these interpretations, Thomas Pangle takes yet another approach, citing Locke as the figure who altered Christian theology in order to make it compatible with individualistic and calculative liberalism. In the process of making theology reasonable, however, he also “contributed to a disenchantment of the world, apparently believing that reason or the philosophic life would thereby be served.”³⁴ Pangle’s larger concern is the way in which Locke’s disenchantment paved the way for the belief of later philosophers (e.g. “Rousseau, Hegel, Kant, Nietzsche, Heidegger”) that it is up to them to

“reenchant the world: that it is *their* deepest responsibility to re-create or re-invoke religious faith, appreciation for tragedy, and reverence for the moral will.”³⁵

In my discussion of utilitarianism and postmodern influences on realism, I shall show why I am quite sympathetic to much of Pangle’s larger argument. However, his position regarding Locke’s responsibility for the disenchantment of the world requires us to believe, as he does, that Locke’s larger agenda was not just to question the authority of the divine right of kings through the use of scripture, but to question the role of scripture and theology in politics as a whole. Locke may very well have had such an agenda in mind, but it is not evident from the texts Pangle cites. Pangle finds that the key to understanding Locke’s subtler argument lies in his theory of property. Locke relies upon a biblical argument regarding property to oppose Filmer’s position that contemporary monarchs derive their absolute authority from the grant of dominion given to Adam and Noah.

Pangle begins his analysis of Locke’s theory of property with the sub-heading “The assault on the biblical conception.” Locke’s defense of biblical politics is actually a critique, something that is made clear by the fact that Locke subtly causes his readers to raise questions about God’s justice. Locke argues that God’s command to humanity to “be fruitful and multiply” requires us to assume that progress is required if the species is in fact to multiply. Yet absolutist regimes do not provide the political foundations for such progress; thus, they are illegitimate from a biblical point of view. At the same time, Pangle observes, Locke refutes Filmer’s argument that Noah is given less authority than Adam, a point made clear by God’s newly granted imprimatur on the killing and eating of animals. Pangle asks us to consider here how readers would respond to the lack of access to such resources prior to Noah. Would they not wonder why God withheld a badly needed form of provision in the period after the fall, when nature itself fell under a curse? Moreover, Locke cites the Apostle Paul who tells us in I Timothy 6 that “God gives us all things richly to enjoy.” Yet God also requires charity to others. Pangle finds this troubling: “how can one trust . . . this counsel in light of what Genesis seems to teach concerning the impoverished and hungry condition in which man was left by God?”³⁶

Locke’s answer, he suggests, is to point to human culpability due to the consequences of sin, but also to reinterpret in a radically new way how we ought to respond to these consequences. Just as we do not find it wrong to attempt to lessen the pain of childbirth for women, pain attached to the curse in the Genesis account, it cannot be wrong to remedy the other effects of the curse, namely the natural subjection of women to men. The pain as well as the other consequences of the curse are not placed upon humanity as punishment. By itself, Locke’s response is not hermeneutically revolutionary. But Pangle believes that Locke forces readers into a theological corner. There are two simultaneous discourses in the text. One involves Locke’s response to Filmer; the other draws our attention to the fact that women

continue to suffer for an act committed by one woman thousands of years in the past. As Pangle puts it, “the providence of the biblical God is the curse laid on man by the biblical God.” The obvious conclusion is that this is Locke’s esoteric way to communicate his belief that “the Bible’s depiction of God is morally incoherent.”³⁷

However, Locke’s views are not as obviously revolutionary and anti-biblical as Pangle claims. Nor is it clear that the use of biblical text is merely window dressing designed to conceal an esoteric agenda. Locke’s theory of property derives from his theory of labor, one that is similar to that of Aquinas and Marx. Property is labor mixed with matter. As Joshua Dienstag points out, thought is also a form of labor³⁸ for Locke since ideas are “the Workmanship of the Mind.”³⁹ And in the *Two Treatises*, Locke uses the term “workmanship” to describe humanity as God’s creation.⁴⁰ Work, then, is a calling for Locke, and property becomes a metonymy for that calling. Work is attached to dominion, the goal of subduing and improving the earth. On this important point, the distance between Locke and Weber’s Puritans is minute.

Labor, in Jewish and Christian covenant theological tradition, is an act of dominion commanded by God in the book of Genesis. Far from being a burden, in this view, labor was the first command of God given before the fall of humans from paradise. The curse on nature was not, as is often supposed, that humans were sentenced to work, but that their work would be more difficult. This is not just theological obscurantism. As Pangle notes, Locke goes straight to the Hebrew text to argue against Filmer’s point that God gave dominion only to rulers. In this way, Locke draws together an argument about property with his larger point regarding the role of all men in taking dominion, not only rulers. Property is a grant from God to be used to take dominion in accordance with, and through the use of, reason. In *The Second Treatise*, he writes:

God, when he gave the world in common to all mankind, commanded man also to labor, and the penury of his condition required it of him. God and his reason commanded him to subdue the earth, i.e., improve it for the benefit of life, and therein lay out something upon it that was his own, his labor.⁴¹

Because labor serves to secure preservation *and* to fulfill a holy calling, there is no contradiction between the two as long as acquisition does not give rise to “the fancy or covetousness of the quarrelsome.”⁴² Thus, in the *First Treatise of Government*, we find the following:

God having made Man, and planted in him, as in all other Animals, a strong desire of Self-preservation, and furnished the World with things fit for Food and Rayment and other Necessaries of Life, Subservient to his design, that Man should live and abide for some time upon the Face of the Earth, and not that so curious and wonderful a piece of

Workmanship by its own Negligence, or want of Necessaries, should perish again, presently after a few moments continuance: God, I say, having made Man and the World thus, spoke to him, (that is) directed him by his Senses and Reason . . . to the use of those things, which were serviceable for his Subsistence, and given him as a means of his Preservation.⁴³

Locke tells us that the same law of nature that creates property rights also sets limits upon it. Pangle observes that Locke places acquisition within the framework of Pauline theology by citing I Timothy 6:17: “God has given us all things richly.” In context, the verse is an admonition to the rich, who may fall into the temptation of greed, not to put their hope in riches.⁴⁴

This is also how ethics and interests were synthesized by religious covenantal thinkers in the pre-liberal period, by seeing interest-seeking as a means of fulfilling a holy enterprise. Covenant theology sanctified the political realm by making politics a holy calling; it did the same for economics. Weber understood this well, though he overestimated the ascetic quality of the synthesis. The Protestant emphasis on dominion was simply a return to the ethic of the Tanach that was hardly ascetic. To reiterate a point made earlier, in this view, God does not call humans to do good for its own sake; on the contrary, covenantal relationships promise blessing for obedience, not existential fulfillment apart from circumstances. Yet, contrary to Pangle’s belief that “any thoughtful reader” would ask the questions he thinks they ought to about the contradictions in the biblical account of God, Locke and his more theologically astute readers would have understood that the answer to Pangle’s argument regarding both the pain of childbirth and the problem of resources is found in the nature of the Torah as a covenant that was itself, from the biblical point of view, a remedy for the curse of the fall.

Pangle refers to Locke’s use of Richard Hooker to anchor his state of nature theory in traditional, orthodox theology. He also notes Locke’s departures from Hooker and believes these are particularly important signals from Locke regarding his real agenda.⁴⁵ Locke uses Hooker to great effect in the *Second Treatise* in his explanation of “The Extent of the Legislative Power,” citing Hooker’s argument, very common for the day, that human law must be consistent with the law of nature and may not contradict the positive law of Scripture.⁴⁶ Pangle argues, however, that Locke does not see these forms of law as complementary, citing passages in Locke’s *Essay Concerning Human Understanding* and his *Reasonableness of Christianity* in which Locke writes that the moral law can be known apart from positive revelation or faith.⁴⁷ Yet Hooker himself makes identical claims in his book *The Laws of Ecclesiastical Polity*.⁴⁸ Nor is this a new interpretation of the relationship between theology and law. It is in fact a necessary conclusion one draws from the beginning of Paul’s Epistle to the Romans, as well as from orthodox, historical theology, as the context of Hooker’s commentary makes clear. It is not that we can know the law of nature apart from revelation, but, as Pangle himself notes, from *positive* revelation, meaning that which is written.⁴⁹ Nor do we

need to profess faith or even admit the existence of God: as Paul argues in Romans 1:18–25 and 2:1–6, one’s lack of a profession of faith does not relieve one of the responsibility to the law that is written on the human heart. Moreover, in the text of 1:28, as rendered in the King James version, Paul writes that the intellectual and moral consequences of a denial of God are related to one another: they lead to one committing acts “which are not *convenient*.” For example, this tension between knowledge and responsibility is at the heart of Calvin’s doctrine of depravity, which holds that the human mind and will have both been corrupted. Thus we are unable to grasp fully the right or to understand its author. Nor are we able to exert our will in such a way so as to accept redemptive grace. At the same time, we remain utterly responsible for our actions because, as Paul indicates, we have enough light to know we are choosing the wrong path. Moreover, there are political consequences that arise from this corruption. For if we act in ways that are not convenient, our actions are bound to affect others. For this reason, as Paul also indicates in Romans 13, God created political authority to protect and preserve humanity. Yet the heart of revolutionary Puritan doctrine lies in the fact that rulers are subject to the same laws as individuals, laws that can be known by reason, though not perfectly, and that should not contradict scriptural mandates. Whether Calvin’s – or Locke’s – response solves the problem is a separate matter entirely. Regardless of this, the Calvinist synthesis of ethics and epistemology does indicate that the very theological currents of the day, even seriously tempered as they were by Locke’s time, would have made Locke’s view of the simultaneous separation and consistency of reason and positive revelation a defense rather than a refutation of standard theopolitical doctrines.

Pangle’s arguments regarding readers’ responses to a God who had placed humanity under a curse and then demanded charity are also addressed by traditional theology. First, in the Torah it is the covenant itself that provides an answer. The laws of the Torah will not completely overcome the consequences of the fall, but they can lessen their effect. This is made clear in the text of Deuteronomy, where we find that the consequence of adherence to the laws is that the covenant people will not face scarceness (Deuteronomy 8:9) but rather will eat until they are full. They will lack for nothing. There will be no need to question God’s provision; it will be abundant. That charity, then, is a requirement of the law, is not likely to cause one to question God’s goodness. If one lacks resources or if charity becomes a burden, it is more likely to raise questions about adherence to the stipulations of the covenant, which is precisely what occurred in Puritan New England. The same is true of pain in childbirth, the basis of much of Pangle’s argument. In Exodus 2:2, we find a passage regarding the birth of Moses: “And the woman conceived, and bare a son: and when she saw him that he was a goodly child, she hid him three months.” In Sotah 12 of the Babylonian Talmud, we find the rabbinical commentary on this verse: “R. Judah b. Zebina said: It compares the bearing of the child to its conception; as the conception was painless so was the bearing painless.”⁵⁰ The lesson we are to

learn from this is that “righteous women were not included in the decree upon Eve.” The passage in Exodus precedes the positive law and explicit acceptance of the Mosaic covenant and comes after the flood narrative. Yet it makes clear that in the Jewish tradition, a tradition with which Locke and Hooker would have been familiar, righteousness, which is ultimately defined by the principles of the law, reverses some of the effects of the curse, or more correctly, exempts one from their consequences.

Second, questions such as those raised by Pangle are not limited to Locke. As Pangle himself notes, they are among the central themes of Jewish and Christian religious history and of the biblical narrative. In his New Testament letters, Paul spends a significant amount of time addressing the suffering of the early Christians who had become participants in a covenant with God. Most of these Christians were quite poor, yet Paul continues to encourage them to engage in acts of charity. The books of James and Hebrews contain similar themes. Pangle points to what is in fact the problem of theodicy, the apparent absence of God in the presence of tragedy. However, it is difficult to argue that Paul, the writer of Hebrews, or the writers of the gospel accounts would have been attempting to undermine belief in God by raising such questions. The words of Jesus, asking why God had forsaken him, seem more direct than the subtleties of Locke’s focus on God’s providence and his goodness. Again, this is not to argue that Locke is not perhaps doing the very thing Pangle believes he is. Locke may not have believed in many of the doctrines he used to support his arguments, and he may very well have had a separate agenda in mind. But the textual evidence Pangle relies upon remains inconclusive. In examining Locke’s biblical hermeneutic, Pangle does make a strong case for ambiguity in Locke’s theory concerning self-preservation and interests. And I am in full agreement with him that Locke does represent a significant transition in the march toward instrumentalist reason and interests. But Pangle’s argument that Locke’s theory of property represents a radical discontinuity from earlier tradition is overstated.

Even if we were to accede to Pangle’s point, however, the question remains as to how the less elite stratum of Locke’s audience would have perceived political ethics. Pangle argues that Locke’s real message of impious individualism was targeted only to a few careful readers who could make the connections; yet even if this were true, one wonders how much effect this esoteric message could have had on the broader political world. Few general readers, including many with political influence, would have been intimately familiar with the “Spiroza–Locke axis”; fewer still would have been likely to make the connections Pangle speaks of.⁵¹ In contrast, nearly all had read Genesis and Deuteronomy which contained the essentials of the dominion concept.⁵² It is likely that, as Tocqueville argued regarding the US, ordinary Americans, when considering their own personal ethics, viewed interests in conjunction with religion or natural law rather than with the ideal of unlimited acquisition.

While a more thorough critique of the shift toward interests is the subject of the next chapter, what should be noted at this point is that the subtle changes in the definition of interests would become the basis for further movement towards a utilitarian, interest-oriented, liberalism. All that was required was a removal of the crucial element of natural law so prominent in Locke's theory. That element created certain guiding assumptions for Locke about what was appropriate behavior, not only at the level of domestic politics but also for states at the international level. The inconveniences that plague individuals in the state of nature also plague states. Thus, in a system lacking a supranational authority, states must act with *prudence* in judging their interests: that is to say, they ought to act with a sense of realism in making foreign policy decisions.⁵³

One might argue, then, that the only thing separating calculations of utility from Lockean prudence is the presence of natural law in Locke's theory, a distinction that was to become less tenable over time. With a decline in the fortunes of natural law, prudence serving interests alone would become *the* guide for policy-makers until the early twentieth century. At this juncture, it is important to recall previous definitions of covenants, compacts, and contracts. Whereas Locke continues to speak of compact, the language of utility – whether at the domestic or international level – is contractual.

The synthesis of interests and ethics in international jurisprudence

Locke was not the only theorist to circumscribe his theory of interests with the obligations and limitations of natural law. The importance of natural law, and the way it mitigated the pure pursuit of interest in early liberal theory, is also evident in the works of Hugo Grotius and Samuel Pufendorf. Both of these writers greatly influenced the development of liberal international thought. Grotius is often called “the father of international law,” and was an important source of ideas for the American founders.⁵⁴ Pufendorf also had an enormous influence on international legal theory and on Locke himself.⁵⁵

Grotius and Pufendorf rely on the concept of right reason to justify their theory of international law. This reason evolved within a theological context that gave it transcendent meaning. As the science of international law developed beyond Grotius and Pufendorf into the world of the Enlightenment, the theology giving “nature” its meaning was discarded in favor of theories that did not rely on natural law foundations. Legal positivists, for example, attempted to rid international jurisprudence of natural law, which they saw as inappropriately teleological.

In the first chapter of *On the Law of War and Peace* (1625), Grotius presents a theoretical foundation for international law. The law of nature – that part of law that gives meaning and intelligibility to all other law – is well

defined. "The law of nature is a dictate of right reason, which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity; and that, in consequence, such an act is either forbidden or enjoined by the author of nature, God."⁵⁶ While there are other forms of law – e.g. positive law, human law – it is this form that gives substance and direction to all the others. No law of man can conflict with the universal principles of the law of nature, since the laws derived from nature are good per se. This universal quality of law made the very idea of international law possible for Grotius. Note the reason he gives for the writing of this work:

Fully convinced, by the considerations which I have advanced, that there is a common law among nations, which is valid alike for war and in war, I have had many and weighty reasons for undertaking to write upon this subject. Throughout the Christian world I observed a lack of restraint in relation to war, such as even barbarous races should be ashamed of; I observed that men rush to arms for the slightest causes, or no cause at all, and that when arms have once been taken up there is no longer any respect for law, divine or human; it is as if, in accordance with general decree, frenzy had openly been let loose for the committing of all crimes.⁵⁷

There is among nations a common law to which all are subject, but one gathers from this passage that Christian nations are more subject to it than others. Grotius codifies the *duties* of Christian nations, drawing upon the dictates of both custom and international agreements.

Grotius' political philosophy is similar to Locke's insofar as reason propels individuals to covenant together for their common good. On that same basis, states covenant together overtly, or by implication, through agreement or commerce.⁵⁸ There is, then, a duality to Grotius' theory that would later allow both naturalists and positivists to lay claim to his heritage. While the law is universal, it is activated only by agreement. States agree to be bound because they find it advantageous to cooperate, but the benefits of cooperation must be obtained through concessions to law. To benefit communally, states must limit their own power, a very covenantal idea. Though the law's power is activated by agreement, its authority is in no way diminished since its ultimate authority does not come from agreement but from its own inherent rightness. Grotius desires to maintain the notion of Christendom as a kingdom unified by law; however, he also desires to uphold, as a realistic observer of modern politics, the rights of nations to create agreements and law on the basis of sovereignty. This duality makes sense ethically only if, indeed, law can be tied to a transcendent source of ethics binding kings regardless of their consent. Kings can only covenant to accomplish good ends. Grotius defends private property as a function of natural law, with one important caveat. Because property is instituted by

God for human sustenance, it is not an absolute right. Property does not exist for the sake of acquisition alone, for this violates its purpose. It may be appropriated, therefore, in extreme need.⁵⁹

Grotius is attached to the covenantal paradigm, a point made clear by the prominence he places on the role of consent in legitimizing law. Consent given willingly assists cooperation and overcomes the hazards of the state of nature and natural law. But positive law that arises from consent should not prove more lenient than natural law. As Steven Forde puts it, "In some cases, Grotius notes, human positive law forbids things merely discouraged by natural law. Here it may be said to tighten the moral laxity of the natural law."⁶⁰

Grotius' work is important not because of the preeminent place he gives to a deity. Rather its importance lies in the way that he perceives rulers to be accountable to principles beyond their interests and, even more importantly, the way that reason itself contains ethical qualities that denote the duties of rulers to one another. For Grotius, doing good is profoundly rational because of the benefits achieved through cooperation, an idea very similar to Locke's view of ethics, in which the good and the beneficial are intertwined without sacrificing the integrity of either. Hans Morgenthau is certainly correct to call Grotius one of the "two men whom we recognize as pioneers of the philosophy of reason in the social sphere" (the other being the Abbé de St. Pierre).⁶¹ But it should be noted that, because of the natural law element, Grotius' rationalism, like Locke's, was not yet that of Bentham, Mill, or later liberal theorists, for whom natural law was problematic, embarrassing, or irrelevant.

Pufendorf (1632–94) had a great deal of influence on Locke, particularly on Locke's beliefs about the problem of inconstancy as the reason to leave the state of nature. Pufendorf's work, *On the Duty of Man and Citizen*, contains a theory of natural law as the basis for international law. Like Grotius, he believed in the naturalness of human sociability for common benefit and aid. From this sociability arises the need for law, which compensates for the defects in this natural order. The influences of Pufendorf on Locke are clearly seen in the following passage.

In order to be safe, it is necessary for [man] to be sociable; that is to join forces with men like himself and so conduct himself towards them that they are not given even a plausible excuse for harming him, but rather become willing to preserve and promote his advantages. The laws of this sociality ... laws which teach one how to conduct oneself to become a useful ... member of human society, are called natural laws.⁶²

Pufendorf finds the source of law in reason, but it is reason in a context of divinely mandated ethical and metaphysical constraints. The other precepts of law following from the fundamental law of nature must conform to the basic principles of that divine law. "For otherwise though they might be

observed for their utility . . . they would not be laws. Laws necessarily imply a superior, and such a superior as actually has governance of another.”⁶³

Because of the undeniable presence of reason as given by God, and the knowledge of good and evil in the human heart, it is possible to derive an understanding of how we may differentiate between just and unjust causes of war. When it is necessary to preserve our property from those who would indiscriminately take it, or when our lives are in danger, war may be justifiable. But when the purpose of war is to satisfy avarice or ambition, it is not justified.⁶⁴

By the end of the eighteenth century, the philosophical foundations of international law had significantly changed. Reason became an entity considered more and more from a scientific perspective, apart from revelation or natural law, to sustain its moral force. With the fall of the philosophical centrality of natural law, international law came to be understood as an expression of the will of states and the sovereigns who ruled them. Both Grotius and Pufendorf rejected the idea of *raison d'état* because they believed positive law had to be consistent with natural law. In contrast, jurisprudence and political theory in the French Enlightenment rejected this belief, and more concessions were made to the power of states to act as they would in conformity with the need for survival.

Applications of the appeal to interests

Natural law advocates and early liberal theorists defined interests in a way that was closer to Tocqueville's “self-interest rightly understood” than the more modern variant. Interest-seeking was to be carried out within a restricted frame, one amenable to community interests. For example, the attractiveness of Locke's solution to making covenants rational is seen in the way Americans, in particular, integrated Lockean thought with their own. Locke's thought was most influential in America in the period between the Great Awakening and the Revolution.⁶⁵ One can see the effects of a Lockean theory of interests, for example, on John Witherspoon, the Presbyterian divine who signed the Declaration of Independence and provided James Madison with his education on ethics and politics at the College of New Jersey (Princeton). As a Presbyterian, Witherspoon was imbued with the neo-Calvinist tradition of believing in the benefits of divided government. As a Scottish immigrant, he drew from the writings of John Knox and other reformers, and the epistemology of Thomas Reid's “common sense realism.” As Barry Alan Shain points out, Witherspoon's reputation as an intellectual was made by his synthesis of republican, reformed, and rationalist philosophies. In that sense, he is a paradigmatic example of the American mind during the pre-revolutionary period.⁶⁶ His view of the proper structure for regimes is very similar to Calvin's. Divided government is necessary; power must be shared to prevent tyranny. But he differs from Calvin and sounds much more like Locke, whom he had also read, when he states that these

divided powers of government “must be so balanced, *that when everyone draws to his own interest or inclination*, there may be an over-poise on the whole.”⁶⁷ Thus Witherspoon, Calvinist and Lockean, passed on his belief in the benefits of a balance of power combined with interest-seeking behavior to his students. Clearly Madison took this lesson to heart.

The synthesis of Locke’s rationalization of interests with public-spiritedness is abundantly evident in other eighteenth-century works as well. Though Thomas Gordon and John Trenchard (known by their collective appellation Cato), were English, their letters were read throughout the colonies. Showing the unity between individual reason, property, and the public good, they state:

[E]very Man has a right and a Call to provide for himself, to attend upon his own Affairs, and to study his own Happiness. All that I contend for is, that this Duty of a Man to himself be performed subsequently to the general Welfare, and consistently with it. The affairs of All should be minded preferably to the Affairs of One.⁶⁸

As Shain observes, the rational pursuit of interests was, at this time, still believed to be consistent with the pursuit of the public good. Individualism remained the right of the individual to pursue his or her interests in accordance with universal norms. Liberty had not yet come to mean absolute autonomy; nor did this view hold that the good was the inevitable outcome of individuals pursuing their own interests. It came through covenanting or compacting together to secure the rights and liberties of all participants in the covenantal polity.

But what of the future of interest-seeking? By the early part of the nineteenth century, Tocqueville, for one, was not at all sanguine about the future prospects of the synthesis described above. Generally speaking, interests were likely to become the “chief if not the only driving force behind all behavior.”⁶⁹ Were interests to be narrowly construed, this development would have serious consequences in the face of rising egalitarian and majoritarian democratization. Political theorists, however, were less concerned with such dire predictions and more interested in developing a more sound and scientific understanding of interests than that provided by Grotius, Pufendorf, or Locke, with their dubious reliance on a religiously tinged view of natural law. Once the circumscriptions of natural law were removed from liberal theory, political theory moved in two very different directions, essentially separating the transcendent and immanent components of earlier theories.

In order to preserve the purity of ethical prescriptions, it was necessary to make them utterly transcendent to interests. This was the path taken by Kant. Kant did make room for interests in his philosophy; they were in fact the engine of history that made perpetual peace inevitable. But whereas for Locke interests could be, and ideally should be, utterly consonant with

freedom rooted in a transcendent view of ethics, for Kant they arose from the realm of coercion and control, i.e. from immanent necessity. In the UK, the path was cleared to conflate interests with immanent happiness of a very different kind from that envisioned by Locke. This was the approach taken by David Hume, Adam Smith, Jeremy Bentham, John Stuart Mill, and the utilitarian school.

Kant's division of ethics and interests

Toward the end of the Enlightenment, the balance of power principle replaced natural law as the guide to international behavior, a major shift in intellectual justifications for state actions. Frank Ruddy portrays the morally chaotic state of international law during this time as one in which “nothing was sacred, no principle inviolable... Not even the most explicit treaty arrangements needed to be honored.”⁷⁰ There was one more grand Newtonian attempt to place ethics, including international ethics, upon firm rational foundations. Not surprisingly, this attempt was made by that great admirer of Newton, Immanuel Kant.

In “Perpetual peace”, Kant constructs a theory of international relations that substantiates a basis for international law, a basis in reason that does not appeal to the authority of God or natural law. Rules for behavior come from a priori premises rather than from natural theology. In fact, Grotius, Pufendorf, and Vattel are condemned for their naïvety. Kant refers to them as “irritating comforters.”⁷¹ Kant states that, in one important sense, there is no such thing as international law because there is no one to enforce it. Thus, it cannot be law. Yet Kant believes in the eventual success of a world federation, a *foedus pacificum*, of republican states arising over time that will obey universal principles and act in harmony with one another.⁷² Paradoxically, he sees the condition for the existence of international law as being discord and separation. The type of law that will replace international law, as understood at that time, will be based upon the dictates of reason and on a spirit of commerce and republicanism.⁷³

There are two elements of Kant's theory that are important here, the predictive and descriptive components of his analysis. Kant was a much better analyst of international politics than he was of physics. His work in the former area is quite prescient. Commerce and republican states as he uses the term, do seem to add to the peace, though the reasons may not be as clear as Kant would have us believe. At the time of Kant's writing, there were few republican states; now they are in abundance. Recent history tends to suggest that, relative to illiberal states, republican governments curb the appetite of states for war, if only with each other. If republicanism were to become a universal pattern, it is not inconceivable that war might be greatly reduced. Kant also believes that a global federation is preferable to a world-state as the latter may become a despotism, a view shared today by many at both ends of the political spectrum.⁷⁴

There is an uncanny realism apparent in this work that is often lacking in other works by Kant, a lucidity that makes much of his account seem reasonable even when human nature is considered with all its downfalls. But from where does the transcendent quality of Kant's prescriptive language come? Kant appeals to nature as the guarantor of peace, but it is not the nature of the natural law theorists. There is no sense of the necessity of God to bolster its rationality. Kant, ever the devotee of Newton, wants to describe his theory in terms that make its course inevitable and rational in a naturalistic sense.

The guarantor of perpetual peace is nothing less than the great artist, nature. . . . In her mechanical course we see that her aim is to produce a harmony among men, against their will and indeed through their discord. . . . We do not observe or infer this providence in the cunning contrivances of nature, but, as in questions of the relation of the form of things to ends in general, we can and must supply it from our own minds in order to conceive of its possibility by analogy to actions of human art.⁷⁵

This last phrase is quite salient (and remarkable) when we consider Kant's larger epistemology. Kant desires to effect a Copernican shift in epistemology, showing why phenomenal reality (the only type we are capable of rationally knowing) is a construct of our minds alone. We will never know the essence of things in themselves. Our ability to perceive things exterior to ourselves comes from the categorical organization of sensory data by the mind. From this, it follows that rational categories can be deduced from first principles – what must be – to explain perceptions of natural phenomena. What is apparent from the quote cited above is that nature, as Kant will interpret it for us, not God, is the securer of the reasonable. Nature in Kant's theory, however, is not the nature of Locke, Grotius, Pufendorf, or other natural law theorists. It is the material, the empirical, and the sensory, caught up in the deterministic maw of the laws of physics. Nature is the disenchanted world (to use Weber's term) of the post-Newtonian mechanists.

The Greeks posited a view of nature, and of reason rooted in nature, that did not involve theism as seen in Christianity. But Kant's nature is not that of the Greeks, for the *Ding an sich*, the thing in itself of the noumenal world, will never be known. Kant's ethics follow from his epistemology. They are categorical, as are the a priori categories of perception he borrows from Aristotle. If we do not find ourselves in agreement with Kant's explanation of the categories of perception, we need not believe in his ethics either.⁷⁶

Why must every individual be treated as an end? Why must one desire to act only as if one's actions were the basis of universal law? The appeal must be on the basis of reason, but as Jaki and Alasdair MacIntyre have both noted, Kant's principles of reason are really Kant's *reasons*, i.e. they reflect the specific principles of his own moral tradition rather than being universal

principles of absolutely undeniable rationality. The appeal to tradition to unite the process of reason with the substance of ethics is necessitated by the synthetic a priori approach within the Kantian framework. If rules must be devised prior to experience in order to be rational, then consequences cannot be a factor. For Kant, the inverse-square law is the paradigmatic example of the synthetic a priori. It is exactly the form of valid knowledge needed to carry out his transcendental deductive method. Newton's law explains *all* material behavior within a framework of absolute space and absolute time. Matter follows the dictates of Newton's law; it cannot do otherwise. A human science that is genuinely science must conform to this pattern. Therefore, all phenomenal explanations must have that same inevitability to meet Kant's criterion of rationality. Kant does not appeal to utility or some practical sense of virtue arising from the nature of human relations per se. Rather, his ethics are deducible from first principles, as are his metaphysics and epistemology. Yet once we leave the world of Kant, we leave the world of a priori principles and are left without a meaningful framework of transcendence.

Conclusion

In *After Virtue*, Alasdair MacIntyre explains that Kant's ethical theory is problematic because it requires Kant to incorporate an implicit teleology in order to make sense of concrete applications of what can be considered rational and moral.

[I]n the second book of the second *Critique* he does acknowledge that without a teleological framework the whole project of morality becomes unintelligible. This teleological framework is presented as a "presupposition of pure practical reason." Its appearance in Kant's moral philosophy seemed to his nineteenth century readers ... an arbitrary and unjustifiable concession to positions which he had already rejected.⁷⁷

MacIntyre rightly wonders how Kant can systematically incorporate such a teleology and maintain the integrity of his project. Doing so would violate his desire to be the Newton of philosophy, though ironically, his view is one that Newton would be likely to reject. Kant recognized that a unity of perception between noumena, or the spiritual realm of human thought and freedom, and phenomena was basic to any credible philosophy, but he had no real way of achieving that unity. Kant was quite aware of this problem as evidenced by his taking it up again in the introductions to *The Critique of Judgment*. Yet he never provided a systematic solution. In the end, imagination remained the basis for explaining the unity of mind and phenomena. Kant himself certainly would not have understood imagination in the contemporary sense as an utterly subjective creative act; rather for him it involved a coming together of mind and object. However, those who came

after him raised questions about how this could be the case or how one could know that it was the case.

The next step in the transition from imagination to the autonomy of the will was taken by Johann Fichte, who was assisted in this endeavor by Kant himself.⁷⁸ Fichte believed that Kant had not given an adequate account of the link between the human mind and the material world. Fichte's solution to the problem was to locate all knowledge and moral freedom in the subjective self, and more specifically in imagination which preceded consciousness, even of ourselves. In addition, Fichte believed that a truly moral act required a choice made in the context of some obstacle, i.e. that moral freedom requires moral conflict. In contrast, law is an artifact of the realm of coercion; it may be consistent with moral freedom but the two are utterly independent of one another.

Once Fichte had thoroughly disembodied epistemology, it was possible to dispose of Kant altogether. Friedrich Nietzsche retained Kant's disembodied will but rid himself of the rest of Kantian ethics which, as he recognized, had no foundations given Kant's reliance on imagination. Kant's "Perpetual peace" is an interesting account of how history may develop; however, it is impossible to see it as a basis for international law or morality. In addition, his own philosophical failures had devastating consequences on future attempts to develop a humane *and* rational ethic.

3 Positivism, idealism, and imperial power

While the project of integrating ethics and interests was encountering great difficulties on the Continent, across the Channel another attempt at constructing a rational political ethic based on “pure reason” was running aground as well. By the end of the eighteenth century, Jeremy Bentham was already referring to natural rights as “nonsense on stilts.”¹ Like Kant, Bentham was an avid admirer of Newton and the elegance of Newtonian physics. Bentham believed the pre-rational vestiges of Lockean thought needed to be excised by the pure rationality of utility. This was to be the new foundation for moral Newtonianism, a truly scientific basis for ethical behavior. The ground for this transition had been sown by the appeal to instrumentally rational interests as a means of countering irrational passions (as opposed to those that could work in concert with reason). On this point, Bentham was heavily influenced by figures within the Scottish Enlightenment, and by David Hume and Adam Smith in particular, both of whom raised serious questions about the relationship between reason and moral judgments.

The shift from harmony to coercion in liberal thought

Hume’s analysis of causality and his reliance upon custom is well known and I will not review it here. What is more important is the way in which his epistemology influenced his theory of ethics. In his *Treatise of Human Nature*, Hume argues that while reason may be understood as a kind of useful fiction, it is unlikely to be a very satisfactory guide for understanding moral judgments. For Hume, reason is not the source of morality or justice. Instead, sentiments and passions give rise to what we understand to be moral precepts, which are in fact projections of our own desires and opinions. Yet we need not fear the rise of moral chaos, since government and laws arise from reflection upon the way our behavior and that of others in our community can best secure our happiness. Hume also recognizes that there is a selfish side to human behavior and for this reason believes that the range of this convergence will be severely limited. Thus, while shared views of the good may exist at the domestic level, they are much less likely to be found between states.

This is an extremely important transition in the evolution of ethical theory. For one, Hume's theory relies upon what Elazar refers to as natural liberty; it is precisely in pursuing that which makes us happy that the greater good is achieved. And that which makes us happy is especially secured by private commercial activity which is, for Hume, one of the most important sources of freedom. Hence, Hume's theory also represents a profound depoliticization of a conception of justice, which lies at the nexus between ethics and politics. Whereas the realm of the natural (Hume is quite willing to use this term) is that which arises from individual choice, politics must involve the unnatural, the artificial. This is not to say that rules of justice and governance are not created, only that by equating the private with the natural, Hume's perspective privileges private activity, especially commercial activity, and private judgments about the good in a way that assumes they will lead to a collective good. There is something to be said for this approach insofar as the right to be left alone can be quite beneficial when compared with the more public conceptions of justice found in illiberal states. Yet Hume's view conceivably advances what Sheldon Wolin refers to as a "non-political" view of society, one in which justice depends to a significant degree not upon the rational construction of just laws or policies, but rather the beneficent outcomes of the autonomous pursuit of private goods.²

Adam Smith, Jeremy Bentham, and the integration of ascending interests

Smith also relies upon sentiment as a basis for moral judgments and justice,³ but he goes beyond Hume's analysis on a number of points. Smith seeks to account for why it is that when the virtues of the efficient allocation of capital through trade are quite clear, mercantilism and protectionism, which he views as unnatural, are so common among states, a point not emphasized in Hume's theory.⁴ Smith's view is often misunderstood as an early version of the Washington Consensus neoliberal model. This is far from the case. In fact, Smith is quite concerned with social welfare and is not as enthusiastic about the free reign of markets and control of the polity by the bourgeoisie as he is often thought to be.⁵ It is true that he argues that the role of the state should be limited to defense and the domestic administration of justice, but he also adds a third duty, that of developing and maintaining public goods and institutions. It is this last point that has caused a significant debate regarding the degree to which Smith can rightly be accused of (or applauded for) contributing to later laissez-faire views of political economy.⁶

Even so, Smith's location of freedom in the private realm continued the process of depoliticization begun by Hume. Conflict, injustice, or war were no longer political problems per se, but instead reflected social and economic pathologies. This view is evident in the well-known passage from his work *An Inquiry into the Nature and Causes of the Wealth of Nations* insofar as it

reveals the way in which appeals to self-interest and the reasonable response to those appeals will lead to beneficent aggregate outcomes:

It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages.⁷

Here again, one finds an appeal to the good that can arise autonomously from within society. Smith believes that the state has and will continue to have an important regulatory role. He is not at all anti-state or devoid of concern for the political in practical terms. Certainly government is necessary to prevent monopoly and collusion, and to secure property, but the larger good is found in the private realm with government acting largely as a neutral referee. In addition, for Smith, prudence no longer involves looking to contexts to achieve ends that accord with right reason. Rather, it allows individuals to calculate and pursue their material interests, a necessary step in the creation of a good society which is founded upon the natural harmony of these interests.⁸

At the international level, Smith famously argues that the pursuit of interests ought to lead to peaceful relations between states. Coming back to his original question regarding the development of mercantilism, he concludes that it is irrational state policies that prevent the development of the natural peaceful order. But the irrationality of these policies is due to the way in which they prevent individuals from pursuing their interests at the international level just as they do at the domestic level. Again, one does not want to make too much of Smith's harmony of interests perspective, since he recognizes that precisely because political and economic actors do not always act in accordance with their true interests, war and market manipulation are likely to remain a part of international relations.⁹

Nowhere is this clearer than in the creation and maintenance of empires, which provide an excellent example of irrational state policy. Despite the fact that it would be in the overall economic interests of states to divest themselves of imperial acquisitions, political leaders in those states cannot bring themselves to do so because of their pride and because of the narrower private conceptions of interest held by those leaders or manufacturers who personally benefit from the status quo.¹⁰ Thus, consumers in the UK are forced to pay an exorbitant cost to defend an empire that primarily serves the interests of one class, producers of manufactures.¹¹ The answer to this problem, however, is not to prevent people from pursuing their private material interests but for states to allow everyone to have an equal opportunity to do so.

Like Smith, Bentham also believed that an appeal to interests was a necessary step in the path to peace and the development of a just order based on international law, a term he himself coined. In Bentham's view, however, a

viable theory of ethics had to rest upon a more parsimonious foundation than that provided by his predecessors. That foundation, of course, is his well-known version of utility, a term he continued to refine throughout his life, but which was generally understood as the greatest good for the greatest number of people.¹² Despite his innovations, Bentham's arguments remained consistent with those of Hume and Smith in that he believed that individual actions were the basis for solving collective action problems such as conflict and injustice. If only individuals were rational enough to pursue their proper interests, these problems would be resolved.

In his "Plan for a universal peace" (1789), prescriptions that look strikingly similar to modern liberal solutions to international problems begin to appear.¹³ Some items on Bentham's list of propositions designed to foment peace can also be found in Wilson's Fourteen Points. Notably, the tenor of the document is both moral and legal, and Bentham's reference to his plan as a "covenant" (Proposition XII)¹⁴ is in many respects not unwarranted. For example, he makes frequent recourse to principles of "fairness" and "honour" and he repudiates the politics of humiliation, superiority, and conquest; but he also wants his readers to be clear that pursuing these moral goods is very much in their *interests* as well. Institutionally, he refers to plans for integration based upon mutual interests that have already proved workable, among them the Swiss confederation and the uniting of the American states (Proposition XIII).

Bentham makes a powerful economic argument against "foreign dependencies." Unlike later liberals, who would argue that empire benefited colonial peoples, Bentham argues that both colony and colonizer have an interest in Britain "giving up all the colonies" (Proposition I). He also opposes secret diplomacy (Proposition XIV) and he is in favor of a reduction in the size of military forces in European states (Proposition XI), collective security arrangements (Proposition XII), and an international court whose power would be based largely upon public opinion (Proposition XIII).

Yet Bentham appears uncertain as to whether the public's opinion rests upon firm foundations, a step away from the view that private acts, if unhindered by public or private monopolies with their narrow view of interests, would lead to a positive aggregate outcome. Even in the midst of great liberty, it may be the case that individuals are unclear on the kinds of acts conducive to their welfare. Thus he relies upon legislators to assist the public in identifying their interests and pass laws consistent with these interests. Wiser legislators ought to be ready to pass laws enforcing treaty stipulations before mass prejudice can undermine their ability to do so. For example, in Proposition XIII, Bentham writes:

By these means the mass of the people, the part most exposed to be led away by prejudices, would not be sooner apprized of the measure, than they would feel the relief it brought them. They would see it was for their advantage it was calculated, and that it could not be calculated for any other purpose.

Bentham's belief that enlightened legislators would be able to escape the same prejudices that plagued more ordinary inhabitants of different states reflects the importance of education common to liberal theories in general. But the fact that he sees a need for such methods, particularly in light of his very lengthy discussion of the folly of diplomatic secrecy in Proposition XIV, is indicative of a shift that was already at work in liberal theory. There is less and less optimism regarding the ability of an invisible hand to produce collective goods automatically and spontaneously, even with political impediments to the pursuit of interests removed.

In addition, there is a latent utopianism in the essay that, sadly, is similar to that found in many early twentieth century peace proposals. For example, Bentham writes:

Ask an Englishman what is the great obstacle to a secure and solid peace, he has his answer ready: – It is the ambition, perhaps he will add, the treachery of France. I wish the chief obstacle to a plan for this purpose were the dispositions and sentiments of France! – were that all, the plan need not long wait for adoption.

(Proposition XII)

Yet conflict was more durable than Bentham supposed. Only a few years after Bentham penned his essay, Napoleon, apparently unfamiliar with the lessons Bentham thought to be obvious, was at war with all of Europe.¹⁵ Michael Turner points out that Bentham himself did not oppose war with France and even attempted to seek economic advantage from the conflict.¹⁶ Moreover, after the two world wars of the early twentieth century, Bentham's confidence in reason, public opinion (educated or otherwise), manifestos, and open diplomacy seems quaint at best.

The conclusion is, that as we have nothing to fear from any other nation or nations, nor want anything from other nations, we can have nothing to say to other nations, nor to hear from them, – that might not be as public as any laws.

(Proposition XIV)

The horrors of August 1945 lead one to hope as Bentham did for something better; however, the necessity of secrecy in June 1944 (admittedly not the fairest of examples given Bentham's larger point) is a reminder of the gap between these hopes and the present state of human affairs. That Bentham never published his plan (it was published posthumously) may indicate that he himself eventually recognized its unworkability.¹⁷

The gap between the ideal and the possible in Bentham's plans is not as great a cause for concern, however, as the coercive elements woven into other parts of his political theory that exist to bridge this divide. As Sheldon Wolin has noted, Bentham's plan for prison reform (the same

subject that motivated Tocqueville's visit to America) reveals the sublimated coercive elements of his theory quite effectively.¹⁸ It also has the virtue of showing why disappointed liberals can simultaneously be apathetic and cruel when their hopes for a rational social order fail. Bentham's plan involved a prison built in a circular manner, in which prisoners would be isolated from one another, and in which prisoners would never know whether the warden was observing them or not since he would not be visible. Thus order would be maintained by solitude and by the perception of surveillance, i.e. by an apparently "omnipresent" (Letter VI) but invisible watchman "seeing but not being seen" (Letter V).¹⁹ Enforced solitude would, in his view, not lead to alienation. Instead, it was necessary in order for prisoners to ponder their crimes and become reformed. Bentham is also quite helpful in that the "great rock" upon which his plan rests is its efficiency and low cost, which Bentham describes as *contractual*. Farming out the control of these prisons to private interests, who would want to run them as cheaply as possible, would accomplish this pecuniary objective (Letter IX).

It is extraordinary that Bentham believed architecture could lead to a benevolent and inexpensive penal system. Prisons today, even in liberal states, are the most illiberal of places regardless of their design. Bentham's plan presupposes that atomized individuals in these facilities will reform their ways because doing so is consistent with what is, in his view, reasonable. But this is no longer simply a reason of means but also of ends, since the larger goal is not punishment but the proper integration of prisoners' world views with those of society as a whole, to turn them into good liberal individuals who should seek similar ends to those outside the prison walls. Were prisoners to behave as Bentham thought they should, his prisons might be able to achieve these objectives. Yet prisoners tend not to be so accommodating. The temptation, then, will be to add greater and greater degrees of coercion in order to force them to be reasonable. That illiberal regimes with very different views of political values have relied upon a similar approach to a much greater extent than liberal ones is small comfort if the central virtue of the liberal regime is natural liberty.

One could argue that Bentham's views on the penal system are not terribly relevant to his views of society as a whole. But to do so ignores the fact that for Bentham the distinction between prisoner and citizen is not qualitative but quantitative. Those who are free should also conform to Bentham's view of utility, and on his view, over time they are likely to do so. This conformity may come about because individuals recognize the value of conforming or, if they are less observant, public opinion will help them to move in this direction.²⁰ His plan for mutual surveillance will therefore work just as well in other settings: hospitals, factories, and poor houses. Note the language in his introduction to his plan: "Morals reformed – health preserved – industry invigorated – instruction diffused – public burdens lightened."²¹ Some or indeed all of these goals may be worthy

enough. What is problematic here is that Bentham knows precisely which goals have value, and thus, which goals the state may use coercion to achieve. All of the discourse and social relations that go into these decisions, what Foucault would term their “genealogy,”²² are hidden from view. Whereas in a society in which value decisions regarding coercion are understood to be political – and in a representative regime subject to some measure of public control – Bentham would move such decisions to the private realm, one in which the political implications of these decisions are less clear, if they are visible at all.

John Stuart Mill: the utility of empire

John Stuart Mill paid even more attention to these problems than Bentham. As Mill discovered, Bentham’s utilitarian theory was insufficiently clear in its definition of happiness as the end of human existence²³ and in its emphasis on state neutrality.²⁴ Mill refined Bentham’s theory in important ways. First, he introduced the well-known principle of non-restriction. As long as no harm is done to others, acts should not be restricted by the state. Much of Mill’s theory rests upon the degree to which harm is an operational term, an issue I address further on p. 78. Second, he asserts that there can be no unitary ends defined publicly in a liberal polity, taking the final step in emptying utilitarianism of its claim to provide a rational justification of political values.²⁵ Though Mill has much to say about virtue and the important role of the state in individual development, there is no necessary substantive *political* element to be found in the pursuit of Mill’s happiness or in the pursuit of interests. These elements of Mill’s theory are well known and I shall not dwell on them here. What is more important for my purposes is to examine Mill’s concerns about the gap between natural liberty and virtue in a society going through the process of democratization.

Like Tocqueville, Mill is concerned about the effects of majoritarian politics *and* mass society on enlightened understanding of interests. For this reason, Mill argues that the development of virtue in individuals is necessary for the health of the community, and that the state thus has a role in promoting virtue, primarily through education.²⁶ None of these views is terribly controversial, but as was the case with Bentham, the implications of the need to lessen the divide between mass opinion and enlightened understanding are much larger than they originally appear. This is especially clear when one looks more closely at Mill’s view of representation and at his foreign policy.

In some measure, Mill’s view on the need for public participation in political matters is similar to Tocqueville’s or to Sen’s view of the benefits of public action. The participation of an active, informed citizenry has benefits for the state and for citizens themselves. And like Tocqueville, who influenced his thought considerably,²⁷ Mill believed that mediocrity, whether of political officials or the public as a whole, was a threat to good governance.

For Tocqueville, the *political* solution to these problems was limited, tentative, and very imperfect, as he recognized. State institutions should share and divide power in order to prevent the centralization of administration while maximizing the strength of governing institutions within their proper but limited sphere. In other words, Tocqueville, like Montesquieu, Benjamin Constant, and the American founders, maintained that some kind of balance of power among political institutions was necessary to prevent despotism at the national level, though Tocqueville also believed majoritarian tyranny was likely to continue to be a significant threat within the states.

Mill's solution reflects a greater optimism on his part regarding the ability of individuals to restrain themselves. First, Mill argues for a proportional representation system of governance since this is most likely to energize the electorate. But there is still the matter of the divide between the few with enlightened understandings of interests and the many whose views have been affected by the pernicious effects of mass society. This leads to the third and perhaps most important innovation in Mill's theory, one that arguably undermines the entire utilitarian project as conceived by Bentham.²⁸ Mill develops a qualitative rather than merely quantitative view of pleasure; however, one must rely upon those with wisdom and experience to explain the proper hierarchy of values. An unenlightened but increasingly energized electorate is not conducive to the development of the progressive society Mill has in mind. In fact, relying upon uneducated tastes may lead in the opposite direction, as his famous comment on porcine pleasures suggests.²⁹

In theory, Mill's unconventional understanding of proportional representation and his plan to limit access to the polls are designed to solve this problem. Proportional representation is of course one way to ensure that minority voices are heard in the legislative process. But Mill's concern is not that any and all minority voices should be heard, at least not equally. Instead, the views of those with enlightened tastes should be significant enough to counter the wishes of the less enlightened majority.

If it is asserted that all persons ought to be equal in every description of right recognized by society, I answer, not until all are equal in worth as human beings. It is the fact that one person is not as good as another; and it is reversing all the rules of rational conduct to attempt to raise a political fabric on a supposition which is at variance with fact.³⁰

Mill goes on to describe a voting system in which voters will have one or more votes depending upon their occupation, which he recognizes is an imperfect measure of education, but probably the one most immediately practicable. In addition to this electoral system will be a list of voting requirements, not unusual for his day, such as competence in reading, writing, and arithmetic.³¹

My purpose here is not to argue with Mill over whether these are prudent or fair measures, the answer to which is I think clear enough, but rather to illustrate the growing recognition of the division between individual liberty and social order even among liberals themselves. Liberals grew increasingly aware that their hopes that the public would embrace a refined understanding of the pursuit of happiness were unlikely to be fulfilled. This was a very serious problem if political values and the coercion necessary to implement them were to be publicly justifiable, as they would increasingly need to be in a period of democratization. Mill represents an important transition in this process. His theory crosses the bridge from a belief in the beneficent ascension of desires toward order, to one of hope in descending commands provided by more enlightened minds. If individuals raise the questions of “why obey?” or “why are the political values we have chosen to emphasize the best for me?” liberalism can have little to say in response that can be understood by those liberated by liberalism itself. Mill did not believe that state intervention should occur except where required by the harm principle, even if that intervention was believed to be in the individual’s best interests. Yet his view of ethics as it touches on his politics requires something much like this. Like those before him, Mill has great faith in the role of education as a means of solving collective action problems. Knowledge becomes a means of protecting the people from themselves. As long as this knowledge is accessible to all, his theory might be plausible if we make the rather Hellenic assumption that selfishness is largely the result of ignorance. But the kind of knowledge Mill has in mind is not accessible to all in a society in which individuals are unwilling to support such an endeavor, i.e. in a society in which members of the public are not aware of what is in their best interests. The state must intervene on their behalf to create a society in which they will come to realize what those interests are, but this requires great faith in the state and faith in the notion that a harmony of interests exists among members of a political community. If the state is not a neutral actor, if it is in fact an institution representing the choices of those who control it, and if, as realists reasonably claim, knowledge and good are not always congruent, then it seems less certain that Mill’s polity will be as progressive as he believes.

At the domestic level, these problems might be mitigated by the participation of many of those governed in the political process. This was not the case in the Victorian period of empire and paternalism. Mill’s view of enlightenment would have profound effects if it were applied to a people considered to have little capacity for self-rule or refinement. First, the problem of determining what constitutes harm would pose serious problems to colonial administrators unless they were to apply their own understandings, something that of course did occur.³² More serious than this is the question of whether colonialism can be justified on pedagogical grounds. On this point, Mill’s view of the political role of education in conjunction with the structure of global power during his day leads to profound conclusions.

Intervention into the non-European world is morally and politically justified since his principles regarding the limits on state power do not apply there. For these races "despotism is a legitimate mode of government . . . provided the end be their improvement and the means justified by actually effecting that end," a determination to be made by the colonizing power.³³

Mill is writing for a different age, and as Peter Berkowitz argues, one ought not to be overcritical of his larger theory based on an anachronistic reading.³⁴ Mill was certainly not the only European to express these views of non-European lands. One need only recall Marx's language regarding the state of development in these areas. But I take note of this aspect of Mill's work because it is part of a much larger pattern in international politics and law. Smith and Ricardo view empire as an unjustified and expensive endeavor; in this they are joined by later liberals like Schumpeter and Hobson. Tocqueville's view is middling insofar as he sees colonialism as beneficial in some circumstances (Algeria), though he is quite aware of its darker side. In fact, his harshest criticisms of America are reserved for the treatment of slaves and indigenous peoples, both of whom suffered from imperial expansion. In contrast, Mill shows none of these reservations. He is quite enthusiastic about imperial expansion and believes it to be justifiable and beneficial. Not only is imperialism in the interests of the colonial power, it also serves the greater good of those who find themselves colonized, an argument that rests upon a perverse link between utility and progress in Mill's theory. This shift in attitudes toward imperialism occurs simultaneously with the rise of industrial and military power in European states.³⁵ At the very least, this raises questions as to whether realists, Marxists and critical scholars, and covenantalists are correct in their belief that reason often follows power.

By the late nineteenth and early twentieth centuries, there were other liberals like Hobson and Schumpeter who hearkened back to the earlier commercial pacifist tradition of liberal thought that had condemned imperialism. Hobson states that imperialism is the result of the insufficient penetration of liberal democratic principles into a polity. Imperialism allows the financial class (meaning, he lets it be known, Jews, in the British case) to export surplus capital, something they must do to increase returns.³⁶ Capital exports require the existence of colonies that can serve as markets for the metropole or host nation, a view that influenced Lenin's own theory of imperialism, as well as that of Joseph Schumpeter. Schumpeter also believes imperialism to be the result of atavistic and monopolistic elements retaining control of the polity. And, like Hobson, he believes that as society becomes more democratic, imperialism will wither. Contrary to Lenin's claims that capitalism gives rise to war, Schumpeter states: "Export monopolism . . . is not yet imperialism. And even if it had been able to arise without protective tariffs, it would never have developed into imperialism in the hands of an unwarlike bourgeoisie."³⁷

Both Hobson and Schumpeter argue that the pursuit of economic

interests leads to peace and prosperity at the global level. As bourgeois values play a greater role in politics, international violence becomes a drain on the fulfillment of material desires, rendering violence an unwanted nuisance. The goal of peace is to be achieved, therefore, by the spread of institutions that facilitate the creation of liberal democracies. The greatest good is achieved for the greatest number by the spread of liberalism. If our focus remains on colonialism and not on aggression per se, history appears to vindicate these theorists to some degree. Just as liberal states do not seem to fight one another, there does seem to be an historical correlation between the rise of parties like Labour in Britain and decolonization policies.

Yet, as G. K. Peatling has noted, even someone as anti-imperialist as Hobson was not immune from the paternalistic assumptions of the benevolence of empire, persuaded as he was that the British appeared to be more capable of governing than other imperial powers. Nor did Hobson explicitly disagree with the notion that there ought to be a global trusteeship for subject peoples, only that control of these areas should not fall under British authority alone.³⁸ More interesting is the fact that Hobson's intellectual opponent in the debate over how best to secure the welfare of subject peoples was Alfred Zimmern, another leading liberal thinker in the early twentieth century period of British liberalism, and part of the British Idealist movement. Zimmern combines a commitment to liberal idealism (in both the philosophical and common senses of that word) with a passion for empire and paternalism that is illustrative of the imperialist potential within liberal discourse. This is unfortunate, because British Idealism as a whole offers significant insights into how one might reconstruct liberal theory so as to place its understanding of justice on a firmer foundation. Yet, in the end, it could not escape the temptations of imperialism, again confirming the value of realist and covenantal insights regarding power.

From contract to community: T. H. Green and British Idealism

British Idealism was a response to the individualistic tendencies found within the line of British thought described here. By the later part of the nineteenth century, British thinkers like T. H. Green had begun to turn away from the social contract tradition of Hobbes and Locke, which they held to be largely responsible for these tendencies, toward German idealism and, more specifically, toward Kant and Hegel.³⁹ Green is especially critical of the epistemic effects of the philosophies of Hume and Locke on ethics, believing that their empiricism does not leave room for the development of a viable ethical theory. As Avital Simhony notes, however, Green seeks to maintain a link between rights and individual interest:

At the same time that Green rejects the egoism and atomism of rights, he does not divorce the institution of rights either from the individual or from "interest." Rather ... he defends the mutuality of rights: a

system of rights both presupposes and gives effect to the social life of mutually dependent and mutually interested individuals.⁴⁰

Simhony argues that Green's theory of rights is distinctive from those of earlier liberals in that his view is teleological, yet his is a teleology that does not reduce rights to having merely instrumental value.⁴¹ Green is concerned that contractual and utilitarian thought ignores the role of community in shaping the individuals who are forming these contracts. Mill was not unconcerned with this issue either, a fact reflected in his emphasis on education. And as I argued on p. 78, one can see Mill as a transitional figure in this sense. But though Green prefers Mill's positive liberty approach to utilitarianism to Bentham's, he is prepared to go further than Mill in asserting a stronger and certainly more explicit role for the state in securing that liberty.⁴² Rights are not claims that precede political community; rather, they arise from within those communities.

While it would be easy to assume that the teleological ethical element of Green's thought is solely a result of his incorporation of German idealism, this is not the case. Alberto De Sanctis has argued that Green relies heavily on Puritan political theory, which serves as a means of integrating German idealism into a British context. Puritanism, he argues, allows Green to find a *via media* between the epistemic extremes of English empiricism and German idealism.⁴³ As a result, he is able to emphasize community and communal responsibilities without all the trappings of German metaphysics attached.

Green's own political concerns, his emphasis on the importance of education, and his advocacy of temperance are closely tied to his Victorian religious sensibilities and to his belief that many obstacles to freedom are not political but moral. As such, the state has a responsibility to facilitate freedom by helping individuals to become capable of overcoming those obstacles in ways that also benefit the community. Yet, despite claims to the contrary by New Liberals like L. T. Hobhouse, who were suspicious of German philosophy, British Idealists do not share Hegel's degree of fascination with the state as a transcendent historical force, an eschatological view they believe to be inconsistent with history and with a British sense of decency.⁴⁴ Green and later idealists influenced by him, such as F. H. Bradley and Bernard Bosanquet, believe that emphasizing the role of community in helping individuals achieve their potential will have dramatic consequences for liberal theory. However, though their view of community could be considered to be organic, they do not look to an organic *state* to organize a single hierarchy of values. The role of the state is more limited: it exists to help individuals develop their capacity to choose their own values in ways consistent with the state's role as facilitator of that development.⁴⁵ This principle immediately and rightly raises alarms regarding the over-broad way in which states, Hegelian or otherwise, have defined the developmental role in the past. Was it not the case that Mao or Stalin believed they were

helping individuals to reach their own potential as citizens of an ideal communist state? As I shall show in Chapter 6, however, the capabilities approach, which comes close to Green's own view of helping individuals develop their "capacity," recognizes that the freedom to develop requires more than economic sustenance or guarantees of material provision (not that either of those regimes was notable on that score either). For these are guarantees that also exist for prisoners on death row, so long as they remain among the living. Common to Aristotle, Marx, and Green is the belief that a material basis for life is simply the foundation of freedom, not its end. But Green remains within the liberal tradition insofar as he recognizes that freedom requires some essential commitment to individualism apart from polis or class, i.e. a division between state and society, and that "procedural" liberties are just as critical as substantive ones.

In spite of significant improvements over their predecessors, the British Idealists were unable to avoid the paternalism of liberal universalism. i.e. a larger belief in there being a harmony of interests between empire and subject. This will not come as a surprise to critics of perfectionist theories of any kind, liberal or otherwise, since their charge is that paternalism is an inherent problem in such theories.⁴⁶ But I believe this critique to be far too broad. Instead, the problem is found in the British Idealists' desire to maintain a belief that an inherently harmonious relationship exists between state and individual interests, a result of their appeal to the organic nature of community. They are clearer on the fact that the state is not a neutral agent of negative liberty, and they are certainly less sanguine about the state's authority to define *the* good. But, as Jeanne Morefield has argued, their belief that all rights arise from within a community and that rights are simply those freedoms that work toward the common good becomes problematic when made concrete in the midst of the social realities of Victorian England.⁴⁷

Morefield notes that Bernard Bosanquet, David Ritchie, and John Muirhead, all of whom were influenced by Green's singular variation of Hegelian idealism, rely upon the "ethical unity" of Hegel's understanding of the moral state to solve the problems of explaining how collective and individual wills can merge into an organic whole.⁴⁸ Additionally, though they disagree with Herbert Spencer's applications of Darwinism to social theory, they rely upon Darwin's theory to show that the progress of universal reason is visible in history,⁴⁹ a view that could easily lead to a significant level of paternalism depending upon how progress is measured and who is doing the measuring. They fail to question who is making the determinations as to what kinds of rights are necessary to facilitate the development of freedom. They seem to be no less optimistic about the ability of enlightened individuals with state power to do what is best for all concerned; like other liberals, they lack an appropriate sense of realism as to their own fallibility. MacIntyre's critique of Kant also applies here: there seems to be little uncertainty in their minds as to which individual goods are consonant with the

common good. While the Victorians as a whole did not deserve what were frankly caricatures by Lytton Strachey and others of the Bloomsbury circle, their sincere and earnest confidence in their own ability to judge what is best for others makes them seem painfully unaware of this fact.

As was the case with the utilitarians, this problem is made less severe at the domestic level by the presence of a political community with a relatively significant and growing level of participation in making these decisions and determining how lines between state and society should be drawn. Even at the domestic level, however, the concrete views of liberals were considerably paternalistic.⁵⁰ But it was at the international level, where that accountability does not exist, that paternalism was to have its most pernicious effects, a fact illustrated by Zimmern's own version of internationalism.

Zimmern was the first professor of international relations in the world and the first to hold the Woodrow Wilson chair at the University of Wales, Aberystwyth.⁵¹ Beyond his impressive credentials, I believe he is an important figure for three reasons. First, his work provides a link to the realist critique of liberalism. E. H. Carr focuses on Zimmern as a liberal involved in the debacle of post-war internationalism that, in Carr's view, led directly to the next global war. Second, as an active proponent of the League of Nations and a founding member of the League of Nations Society, he was heavily involved in the development of the post-World War I international settlement. As such, he is someone for whom political theory was also a matter of political practice. Finally, as an intellectual descendant of T. H. Green and the British Idealist movement,⁵² his thoughts and actions are illustrative of why Elazar's concerns about organic modes of conceptualizing the body politic, which were prominent in British Idealism, should be taken seriously.

Alfred Zimmern and coercive idealism

There is broad recognition that Carr's critique of idealism as utopian is somewhat misplaced.⁵³ Carr argues that liberalism's fatal flaw is its belief in the existence of a harmony of interests among states and the political naivety engendered by this belief. Indeed there is plentiful evidence of such views among liberals. Woodrow Wilson, Henry Stimson, and later, Franklin Roosevelt would all place their hopes in public opinion to enforce post-war settlements. Stimson went so far as to argue that the authority of the Kellogg-Briand Pact lay in public opinion, which could be made "one of the most potent sanctions of the world."⁵⁴ As Michael Glennon notes, however, that pact "was signed by every major belligerent in World War II."⁵⁵ Yet Carr points to Zimmern's thought (and Green's) as an example of this problem. "If people or nations behave badly, it must be, as Buckle and Sir Norman Angell and Professor Zimmern think, because they are unintellectual or short-sighted and muddleheaded."⁵⁶ Carr attributes this doctrine to Adam Smith, yet a closer reading of Smith's work reveals that this is a gross

oversimplification, since Smith was very much concerned with the conflicts of interests that would arise between the merchant class and the population as a whole. It would have been better for Carr to have focused on Richard Cobden and the Manchester School of liberalism, whose views came closer to the harmony model Carr had in mind.⁵⁷

Zimmern, on the other hand, explicitly repudiated a harmony of interests theory.⁵⁸ In fact, as Paul Rich points out, Zimmern's concerns about the lack of distance between universal and particular interests found in Wilson's internationalism preceded Carr's own critique by nearly twenty years.⁵⁹ Even so, Zimmern's thought does display a harmony of interests view of a different kind, one reminiscent of the ethical unity perspective found in the works of British Idealists. Given his critical role in influencing political opinions in the immediate post-war period, and more specifically his influence on British policy towards the League of Nations, his beliefs on the role of empire and subject populations are quite relevant.

For Zimmern, colonial populations are not prepared for self-rule; they are in need of a significant amount of education before they can be trusted to govern themselves. Their own good, in the long run, therefore requires a continuing role for imperial powers who can help create the sociopolitical environment that will eventually allow these peoples to govern themselves effectively and morally.⁶⁰ The Commonwealth model (British rather than covenantal), in Zimmern's view, provides an excellent template for world order given its effectiveness at blending multiple population groups together into a harmonious whole.⁶¹

Those who had to live under British rule could not help but see the hypocrisy at work in making theory into practice. Though Britain was more "liberal" in its colonial administration than other states,⁶² Zimmern's faith is extraordinary given the record of colonial practices, which even one of the Empire's contemporary defenders admits was rooted in a kind of "organized crime."⁶³ Of course, Britain is no worse than any other conqueror, European or otherwise. What is peculiar, however, is that so many intellectuals of Zimmern's generation were able not just to look past the origins of the Empire and the morally dubious practices of their own day, but also to rest their vision of progress upon its continuance. Nor were states like Germany, subject to the peace negotiations in which the League and the ideals of fair play and neutrality played such a critical role, likely to be comforted in their losses by the moral superiority of British power, and certainly not when attached to post-war American hypocrisy and French *revanchisme*. Even Zimmern's fellow liberal Keynes was horrified by what he saw as the growing gap between ideal and reality in the negotiations, a gap due in no small part to the decisions of the man for whom Zimmern's post was named, Woodrow Wilson, who had promised Germany a "peace without victory."⁶⁴

Morefield argues that liberals like Zimmern overestimated the consistency between global interests and British interests, a belief rooted in their organic view of politics,⁶⁵ a point with which I agree. However, she goes on to argue

that a more significant flaw of Zimmern's vision was an unwillingness to consider any kind of coercive supranational authority due to his antipathy to state power in general.⁶⁶ If this is the case, then it is a flaw he shares with an abundant number of other liberal theorists, but also those across the political spectrum. It is not immediately clear why creating a world-state⁶⁷ would bypass the problem of imperialism per se. More likely than not, the opposite would be the case. Nor is it clear why involving elites from many, or even all, states would not lead to the kind of organic ethically unitary discourse Morefield sees at work among liberal theorists. Ostensibly global interests would then reflect the actual interests of global, rather than merely British, elites. Indeed, this is the critique of the current global order by many on the left who argue something like this already exists at present in the form of intergovernmental organizations like the World Trade Organization, the G8, and the International Monetary Fund. I do think there is merit, however, in her argument insofar as it applies to transnational institutions with some significant measure of shared values and democratic accountability. But these elements were not found in great abundance in Zimmern's world. In addition, as Peatling points out, Zimmern's view of state sovereignty was mixed, since he was more concerned with the sovereignty of great powers than of lesser ones.⁶⁸

By 1951, Zimmern had in fact begun to embrace supranationalism in the form of a united European defense council, one which would work closely with the United States but one that would also be distinctly European.⁶⁹ As was the case with his post-1918 vision of a world ordered by enlightened states that would enlighten less advanced peoples, his proposal for a union of European states is based on an organic model, a model covenantal theory explicitly repudiates. Anticipating concerns of his audience that his proposal is too utopian, he states:

This proposal may startle you. . . . But before you dismiss it as Utopian or unrealistic . . . I would beg you to consider it carefully in light of the organic development . . . which has already taken place in the North Atlantic area and to ask yourselves how we can . . . secure either the thoroughly effective organization or unfettered leadership which are indispensable if we are to overcome the present danger and enable our civilization to survive.⁷⁰

Zimmern's idea for a defensive union went nowhere, unlike other functionalist proposals based on economic integration. But this was no less due to utopianism than to bad timing. What was utopian in the aftermath of World War I, in contrast, was his belief that a coalition built upon such morally dubious foundations would be viewed as legitimate. That Germany would take this view is hardly surprising.⁷¹ Yet the moral hypocrisy arising from the gap between the lofty ideals of the League system and its concrete policy outcomes also affected the willingness of British and French leaders to enforce its provisions once the passions of the war period had dissipated.⁷² It

may be possible in the face of an immediate threat to fight for, or spend one's treasure on, the enforcement of an unjust policy. Without that threat, however, defending such a policy becomes difficult or even unconscionable.

From substance to procedure in international law

Woodrow Wilson's international vision contained fatal contradictions of its own, contradictions which still haunt international relations. Despite Wilson's fascination with covenants and the covenantal language of the League proposal, there is little genuinely covenantal about his approach. Wilson, like Zimmern, relied upon an organic theory of progress.⁷³ In addition, his political ontology is similar to that of other liberals described in this chapter insofar as he believed that some people are more prepared for political freedom than others. Wilson supports two contradictory objectives: self-determination (which implies non-intervention) and the presence of enforceable public international law. He believed in the liberal tenet of consent being the basis for legitimate government. But self-determination on the basis of ethnicity is not necessarily a stabilizing force in a world of empires, a fact that seems obvious a century after these events took place.⁷⁴ As Morgenthau observed, the contradiction between the ideals of self-determination and the outcomes of the Treaty of Versailles was another reason liberals were unable to stand up to Hitler's pre-war annexations of territories with large German contingents.⁷⁵ According to one pole of liberal theory, his acts were perfectly justifiable.

The consequences of the inclusion of self-determination in Wilson's principles should have been obvious, given the level of conflicts that existed within Europe and within the colonies of the great powers, and the level of force used by imperial powers (including the US) to deal with these problems. Wilson's expectation was, however, that people the world over had similar interests and motivations. Just as putting power into the hands of ordinary voters in New Jersey led to a more honest and representative system of governance, the same would occur once all peoples were liberated. There were two significant problems with this view. First, Wilson's assumptions about the universality of interests (and the applicability of the specifics of New Jersey politics) led to misjudgments regarding the stability of the post-war system he had a hand in creating, emphasizing as it did peace rather than justice. For one, his assumptions regarding agreement on conceptions of interests did not always reach beyond his own cabinet – as Secretary of State Robert Lansing's forced resignation made clear – or even his own party.⁷⁶ Given the unwillingness of the US to commit forces to conflicts outside its sphere of operation, it is remarkable that so many critics of Wilson's foes in the US Senate maintain the position that had America done the "right thing" and become a member of the League, the next global war could have been prevented. This was particularly true if the agreement to be defended contained provisions that were morally suspect. Second, the gap

between ideal and reality only grew as the negotiations continued. Germany had surrendered hoping that Wilson's rhetoric in his Fourteen Points would be matched by actions. The actual provisions of the Treaty of Versailles made it quite apparent that was not to be the case. Yet Wilson, for whom conflicts of interest were only apparent, not real,⁷⁷ was convinced that a collective security arrangement which would commit the lives and resources of states to conflicts in which they had no direct interest was workable. Additionally, his conflation of peace and justice blinded him to the ironic nature of a just peace that would potentially require these same states to use force to maintain the territorial integrity of empires made up of peoples who should have had a right to self-determination. When France, Britain, and Japan asserted their right to the former German colonies, Wilson opposed this in principle yet accepted it in reality through the Mandate system.⁷⁸

The Mandate system illustrates the consequences of "education" as understood by liberals of this period. Mandates existed for the good of the people unfortunate enough to live within them. Their purpose was to bring about the improvement of these peoples and prepare them for self-determination, though that latter goal would remain temporally vague.⁷⁹ There was precedent for this approach in European international law that dealt with colonial territories. For example, it was clear that the very European idea of sovereignty could not possibly apply to indigenous peoples.⁸⁰ Contrary to Morefield's position that liberal imperialism constituted a rejection of supranational authority, Martti Koskenniemi argues that imperial powers were very happy to accept such authority when it allowed them to place their control of foreign territory within a universalist moral framework.⁸¹ In the event, it quickly became evident that Mandates simply constituted imperialism with liberal characteristics.

At the same time that the post-war settlement was becoming politically untenable, trends in philosophy, politics, and law were undermining the foundations of idealistic liberalism. The advent of logical positivism and "therapeutic philosophy" in the early twentieth century propounded by figures such as Bertrand Russell led to an attack on the British Idealist tradition and its eventual demise as the basis for political theory. This makes some sense, as the scientism of the positivist movements was a throwback to the empiricism Green had sought to overcome. Positivists argued that words like "good," "right," or "immoral" had no positive content and thus were emotive. Victorian morality, whether utilitarian (Sidgwick) or idealist (Green), made little sense in this context, making it an easy target for ridicule when considered alongside imperial practices and the folly of global war. That being the case, the patriotic fervor needed to generate the political will to enforce the post-war settlement seemed all the more out of place. It was in this political climate that the new empiricism and the awareness of the immorality of imperialism – the same imperialism that was to benefit the subject peoples of the world – converged. And it was in the midst of this

weariness with claims of transcendental knowledge and morality that the Oxford Union voted never to fight for King and Country.

Realists would later focus upon these gaps between moral ideals and immoral practice, and on the apparent lack of self-awareness among liberals as to how actual policies based on their theories would appear to those affected by them. They were particularly critical of liberals' faith in reason and the power of interests, rightly understood, to unite disparate peoples, as well as the consequences of the failure of liberal policies for those who had put faith in them. (The events in Srebrenica and Rwanda and a host of other regions supposedly under the legal protection of international organizations make it clear that this remains an issue of concern.) This is especially true of Hans Morgenthau in his critique of liberal scientism and its ironic agenda of debunking reason itself.⁸² MacIntyre refers to this process as one of "unmasking," in which the impossibility of reconciling incommensurable moral positions leads to a shrill debate that can never be won, and in which ethics is reduced to pointing out the arbitrariness of one's opponents or intellectual predecessors.⁸³ The liberal component of the Enlightenment project collapsed at this point as its epistemology could not support what was arguably its most important objective: to find a stable ethical foundation for rights, rights which were central to a liberal theory of justice.⁸⁴ Natural law, utility, and universal spiritual consciousness had failed to provide this foundation, leaving little for later liberals to work with other than some form of pragmatism or an escape into technique – in philosophy and politics – as opposed to substance, what MacIntyre calls the realm of the morally neutral "manager, the bureaucratic expert."⁸⁵ This is a very convenient change in political theory since managers, political or legal, need only worry about managing the rules of justice, as opposed to formulating them. In this quality, management appears to look much like natural science in its approach:⁸⁶ rule-driven, systematic, and dependent on specialized knowledge. It is no coincidence that the modern study of public administration (state) and organizational theory and behavior (market) came into being in this period.

The shift from substance to procedure was equally successful in the field of jurisprudence. By the late eighteenth century, natural law had given way to positivism and a focus on state behavior as a mean of legitimating legal principles. The same was true for the nineteenth century as well, though jurists would also rely upon natural law arguments to supplement positivist ones. Nevertheless, there was no question that such arguments could not stand on their own.⁸⁷ Eventually even the idea of the "state" as an actor gave way to a recognition that individuals made and interpreted laws, not states. Nor were laws somehow "out there" to be found and applied; rather, adjudication was an inherently political act that served some social purpose or interest. These trends were exacerbated by the same failures of idealism in the period after World War I that had given rise to realist international relations theory. To defend the relevance, or even the existence, of international

law, it became necessary to show how legal norms were themselves political creations and how they affected other elements of political behavior. In Europe, such arguments were reflected in Schmitt's international jurisprudence.⁸⁸ In the US, these trends culminated in the development of the legal realist movement in the 1930s, which began at Yale and quickly spread to other universities. According to legal realists law was not an autonomous and controlling set of principles; rather it was an expression of principles chosen by specific political actors to achieve political purposes. As a result, law ought to be viewed as a means of policy-making. Yet legal realists retained a sense of idealism insofar as it sought to promote policies consonant with human dignity.⁸⁹ Other similar models soon followed, one of which was the legal process school, which made explicit what was only implicit in other theories of international law. If law is politics, then how does one defend its legitimacy, its authoritativeness? For the authority of political decisions rests in the political process in which it is clear that, even in democracies, equality of outcomes is not the goal. The answer to this rather Gödel-esque dilemma was to rely upon procedural formalism to provide a sense of the neutrality of law as an autonomous realm governed by neutral principles applied evenly and equitably.⁹⁰ In law, as in politics, pragmatism was the best means of overcoming the inability to find descending principles that could provide a means of ordering the multiple and diverse interests ascending from autonomous individuals or sovereign states.

We have thus come full circle, achieving that which eluded previous generations: a theory of justice that approximates Newtonian physics, with individual will as the initiator of "motion," with procedure in place of laws of nature, and with the manager as moral engineer, implementing and regulating the means of control over individual choices in order to unite them into a socially cohesive whole. This was certainly Schmitt's view of the procedural focus of post-Versailles international politics, which he believed prevented people from seeing the obvious, that a new structure of power had come into existence. This new political configuration allowed the US to act as a hegemonic power through its economic power and its ability to pressure other states (especially Latin American states) to agree with its political objectives.⁹¹ Whatever one may think of Schmitt's own political biases, his arguments are remarkably similar to those heard at present regarding US power post-1989.

MacIntyre rightly sees Weber at the center of this emphasis on procedure, for he is a critical figure for developments in thinking about politics in Europe and the US. The realm of management, of the expert engaged in administration, is something that both fascinated and repulsed Weber, who was in some ways the most acute analyst of the growing disconnect between means and ends in politics. Weber argues that empirically, the rationalizing project of the Enlightenment leads not to the enlightenment of the masses but rather the stultification of modern life, disenchantment, and the iron cage.⁹² Weber believes the Enlightenment hope of placing values on a

rational basis is no longer tenable. There is no way to turn back the process of disenchantment, nor can science teach us to be happy or tell us how to measure happiness. Like Nietzsche, Weber believes that happiness is the creation of the bourgeois last men, and there can be little doubt as to who he has in mind.⁹³

After Nietzsche's devastating criticism of those "last men" who "invented happiness," I may leave aside altogether the naive optimism in which science – that is, the technique of mastering life which rests upon science – has been celebrated as a way to happiness. Who believes in this? – aside from a few big children in university chairs or editorial offices.⁹⁴

In politics, social science could explain and describe, and bureaucrats could implement; both of these activities were instrumentally rational in his view. But the ends, the choices made regarding political values, or any set of values for that matter, had to come from an arational source, an area in which social scientists and experts could not be helpful.

These changes in liberal theory in the period between Bentham and Weber worked well for the European powers and the US. It was the period of empire and colony-building, when Europe had to find an outlet for its dramatically increasing population as well as an intellectual justification for imperialism. The language of interests played a remarkable role in creating a continuity between the earlier rational framework provided by classical liberals and the rise of positivism in international affairs and law. As the definition of interests was denuded of its natural law framework, however, interests took on much more of an instrumental quality not anticipated or desired by classical liberal thinkers. Interests became separate from limits on elite power and the requirements of ontological equality that had appeared in numerous political and social movements inspired by covenantal thinking. The organic ontology of social and biological Darwinism was much more fitting for modern liberal imperialism than covenantal thought, which had all but disappeared from view. At present, when one examines the elevated moral language of liberal theorists, such as that found in modern human rights documents or the lofty goals of those engaged in international institution building, it is difficult to pinpoint the theoretical source for such language given the current state of liberal theory in law and politics. Subsequent chapters take up the question of whether the evolution of liberal thought leaves us with the intellectual tools to develop a viable international ethic for the future.

4 Deconstructing liberalism

Previous chapters examined the development of conceptions of interests and instrumental rationality in the intellectual history of liberal theory. They focused upon what liberalism has been. However, one could argue that the flaws I discussed in these chapters were the result of misapplication of otherwise valid principles, of irrational means to an otherwise valid objective. This chapter discusses the present state of liberal theory, with a particular emphasis on liberalism's most notable theorist, John Rawls. Rawls' extraordinary theory is one of the most carefully constructed and thorough defenses of liberalism in contemporary political philosophy.

Rawls' theory presents critics of liberalism with an opportunity to illustrate its flaws since these flaws, they argue, exist in great measure in Rawls' works. Communitarians¹ find the liberal emphasis on interest-seeking, autonomy, and rights troubling. Many communitarians wonder whether liberal societies can continue to flourish, or even survive, as these individualistic tendencies grow more prevalent. Ironically, Rawls himself began to move in a communitarian direction as his theory evolved and as he attempted to explain how political liberalism might work in real-world domestic and international politics. His increasing reliance upon political culture reveals the inability of a viable theory of liberalism to exist without some appeal to virtue and therefore without some appeal to a substantive, material conception of justice and the good.

My purpose is not to argue that Rawls' liberal theory is without merit. On the contrary, I find the general points of global governance found in his theory to be quite persuasive, especially those arising from *The Law of Peoples*, and more temperate than the positions of some other contemporary liberals. The tone of this book in particular has none of the shrillness, as MacIntyre puts it, one finds in other liberal works. Whatever its flaws, it is in many ways a model of the kind of decency of spirit Rawls hopes can unite peoples with very different views of the good. In addition, Rawls' emphasis on the need for liberals to maintain a passionate attachment to their values while at the same time remaining tolerant and open to dialogue is all the more necessary in the current global political environment. Instead, my purpose here to show why it is that Rawls cannot bridge the chasm between

individual preferences and collective action that plagued earlier theorists. In later chapters, I will show why the covenantal paradigm can accomplish what Rawls' liberal theory cannot: uniting procedure and substance in a way consistent with what I see as the end of Rawls' larger project, the creation of a theoretical basis for a more just global order.

Next, I discuss the positions taken by critical legal theorists who focus on liberalism's moral blindness. The critical legal analysis is particularly significant because liberals tend to believe that in matters of law, they are on safe moral ground. Critical legal thinkers have argued that liberalism's rule-orientation is in fact a façade masking assertions of power, in much the same way liberalism served as a justification for imperialism a century ago. Finally, I briefly address realists' very similar critique of the coercive nature of liberal discourse. They argue that though liberals espouse an ideology of peace, conflicts may be exacerbated by the inability of liberal policy-makers to distinguish moral principle from rationalizations for aggression in the name of principle.

The problem of social cohesion

Liberal theorists have been accused by their intellectual descendants of relying upon ethical theories or metaphysical conclusions that are unwarranted by their epistemic assumptions. Such accusations are, more often than not, justified. The previous chapter showed how values gained autonomy within the "private" realm, in which no public good could be defined and in which natural law or natural right was held to be metaphysical nonsense. Although rationality became more and more instrumental, liberals never doubted for a minute that reason was still "reasonable." The Victorian obsession with facts, which prompted the criticism of Matthew Arnold and the satire of Dickens, led in the twentieth century to the hyperempiricism of logical positivism in epistemology and emotivism in ethics. More recently, behaviorism, microeconomic theory, and its political equivalent, rational choice theory, have done much to support the idea that preferences can stand in place of more traditional ethical conceptions. It is true that the separation of fact and value in these theories is methodological rather than metaphysical. It is also true that they have led to significant breakthroughs in our understanding of human behavior. However, the view that the normative dimensions of policy can be separated from the empirical approach to the study of human life appears dubious. Moreover, that scientific (and thus meaningful) discourse requires a suspension of ethical commitments and the belief that this suspension, even if possible, can be compartmentalized seems naïve, dangerous, and perhaps peculiarly American, to many thinkers familiar with Gramsci's (and Pierre Bourdieu's) critiques of epistemic objectivity.²

While modern Anglo-American political theorists historically emphasized instrumental rationality, many Continental thinkers rejected this

approach. German thinkers, in particular, posited a separate vision of the good and a detestation of the bourgeois last man, the “shopkeeper” who is only concerned with material comforts. Initiated by Rousseau’s horror of the scientism and rationalism of Enlightenment France, this theme was picked up particularly by German theorists such as Nietzsche and Martin Heidegger, as well as their postmodern descendants. Rather than opposing instrumental reason with a classical conception of reason, they appealed to the arational and the aesthetic as a basis for critique. Ironically, they drew their inspiration from the same figure who would play a central role in liberal IR theory: Immanuel Kant.

In *The Birth of Tragedy out of the Spirit of Music*, Nietzsche argues that Kant played an important role in shifting aesthetic judgment from the rational to the intuitive.³ This claim seems justified given Kant’s point that, as one contemporary critic puts it, there can be “disagreements” about tastes, for example, but not “disputations,” as there are no rational a priori principles to which we can appeal.⁴ The split between ethics and epistemology, manifested in Kant’s theories, is central to Nietzsche’s thought. To Nietzsche, the autonomy of the aesthetic made perfect sense whereas the autonomy of reason was utterly chimerical. To the degree that ethical principles relied upon a Kantian epistemology, he concluded, they were creations of the will and, thus, human constructs.⁵

In Nietzsche’s thought, the public–private distinction in liberal thought is shattered.⁶ The world is the creation of those who are strong enough to face the death of God and brave enough to create new horizons within which the rest of us can live. These creators are Weber’s charismatic figures who are not bound by the bureaucratic rationality that restrains the rest of us. But there is no guarantee that they will construct horizons that contain rights, individual autonomy, or the other elements of a humanistic ethic. In fact, should they remain faithful to the substance of Nietzsche’s thought, they most certainly will not.⁷ Rights, interests, and the rest of the trappings of liberal language belong to the “last man,” the despicable creature desiring only security, material comforts, and sated appetites. Liberal democracy is the polity of the last man, and social democratic or socialist regimes are only more contemptible. All are vestigial remnants of the slave morality made universal by Christianity and reinforced by Socratic rationalism.

Nietzsche’s work presents an obvious problem for liberalism. If, as he says, “the will to a system is a lack of integrity,”⁸ and all horizons are socially constructed, then there can be little room for rights that are inalienable or any other concepts that require rational foundations. What justifies any horizon is its aesthetic qualities, not its ultimate truth value, something that has no meaning in Nietzschean thought. He recognizes that we will need great men (literally – women in his view do not have the moral strength necessary to carry out great projects of revaluation) who can create new tables of values for us; but there is absolutely no guarantee that they will be liberal values.

If Nietzsche posed a problem for liberalism, it was Max Weber who solved it. Weber brilliantly combined the instrumental rationality of science and the value-relativity of Nietzschean epistemology, thereby solidifying his influence over the social sciences and rendering Nietzsche palatable for liberal theorists. Consistent with their uncanny ability to combine innocence and arrogance, American liberals in particular were comforted by the familiar quality of value-relativity which appeared to them to be utilitarianism with German characteristics. Weber's synthesis is of great importance because it takes both Nietzsche and science seriously, something that would have rendered the work of a lesser scholar unintelligible. Thomas Spragens characterizes this philosophical synthesis as "positivist pluralism," a term that fits nicely with the liberal version of Weberianism. He sums up its essential features in the following way:

[D]emocratic politics is a story of conflicting plural interests. Around these interests, *which are normatively equivalent preferences*, groups are formed. . . . Since none of the groups can in fact dominate or secure all of its goals, public policy is formulated by compromise and piecemeal "muddling through."⁹

This "muddling through," the movement across the line from the relative to the absolute, from the *principium individuationis* to the collective, and from preferences to the public good, is not just a peripheral characteristic of liberal international relations theory; it is at the heart of the vision liberals have of the global future. For example, if we return to the common threads of liberal theories cited by Zacher and Matthew, we find that international liberalism is progressive; it holds that peace, justice, and welfare are realized by international cooperation; that these values are enhanced by the effects of modernization; that individuals are the primary actors in the international sphere; and that history is ateleological in the sense that there will no convergence upon a "single, shared view of the ends of life."¹⁰ But note that there must be enough convergence for rational persons to agree on what is entailed by such words as progressive, justice, and welfare. While one could argue that justice is a procedural matter, clearly progressivity and welfare have substantive overtones that render their equation with preferences problematic.

Kegley fares no better in dealing with the problem of preference formation and public goods. He also relies upon a notion of progressivity and discusses "good" human nature versus "bad" human behavior, as well as behavior brought on by evil institutions. More importantly, Kegley believes that "international society must reorganize itself institutionally to eliminate the anarchy that makes problems such as war likely."¹¹ In addition, he writes: "War and *injustice* are international problems that require collective or multilateral rather than national efforts to eliminate them."¹² In their exceptional work on peace settlements, Kegley and Gregory Raymond argue

that the core of liberalism, which distinguishes it from realism, is adherence to ethical principles.¹³ This assumption lays the foundation for their entire approach to reducing the frequency and severity of conflict, an approach that I find very persuasive and quite consistent with covenantal theory. Yet nowhere are we told how unity of ethical purpose is achieved within, or between, liberal states in which individual moral autonomy is a defining characteristic. They appear to assume this is a problem liberal theory has already solved.

These positions reveal a pattern of movement from relative to absolute ethical claims and from preferences to the possibility of coercion. In the absence of shared goals or values, social order must be brought about by force that is non-consensual. Liberals first assert that there is no teleology inherent in liberal thought and that preferences ought to remain supremely free, exogenous to coercion of any kind. Only then can one claim that some preferences are more equal than others. Human rights, treaty obligations, and the like, are given a preeminent place in a hierarchy of preferences that ought not to exist. This line of thinking is defended on the basis of an appeal to neutral principles (e.g. sovereignty or international legal standards for intrastate behavior) that are largely procedural. In other words, all questions of a substantive nature, particularly those that challenge the claims of neutrality, are relegated to the procedural realm. After covering over the movement from relative to absolute, liberals often appeal to coercion in order to defend the existing structure of political and legal relationships among nations. These appeals rely upon definitions that liberal leaders have constructed on the basis of their own conceptions of rationality. For it is one thing to coerce a dissident group in one's own state. States contain structures of positive law and, as Weber put it, the monopoly on legitimate violence. It is quite another to coerce a sovereign state which may appeal to rules in the UN Charter prohibiting intervention. The distinction between this sort of behavior, and the Kiplingesque vision of colonial powers a century ago, is difficult to determine without some kind of ethical foundation that reaches beyond emotivism or the language of preference formation. The only obvious difference is that now, rather than action being taken by one state, it is taken by a greater number of states in the UN Security Council, four of whom are former colonial powers.¹⁴

Liberals themselves have recognized that there is a tendency to allow moralizing absolutism to guide liberal nations into conflict. Doyle, following Hume, recognizes the tendency towards "imprudent vehemence" in liberal foreign policy.¹⁵ Liberal states alternate between passivity in dealing with some crises and vehement aggression in others.¹⁶ But despite their recognition of the problem, it does not appear that there is any keen awareness as to why it occurs. Certainly there are numerous reasons for these conflicts that involve security, economics, history, and culture. However, if there is no rational ethical theory to which liberals can appeal when making foreign policy decisions, then there can be little comfort in this multiplicity

of causal factors. They each provide reasons for the pursuit of a wide range of preferences, some of which will include the use of force. If policy-makers choose the path of peace or justice, these decisions must be atheoretical and ad hoc. Judgment requires judicial criteria; if such criteria are considered outside the bounds of rationality itself, then one ought not to expect policies that are both rational and ethical. One ought to expect interest-based behavior, defined narrowly, to prevail. Ironically, we find interest-seeking as the only rational explanation of international behavior. That explanation, however, cannot adequately distinguish between the behavior of liberal and illiberal states; nor can it properly distinguish between liberal and realist theories of international ethics.

Communitarians believe that political actors are less likely to cooperate without some form of arational motivation for them to do so. I use the relative term because, as I noted earlier, the divide between cosmopolitan liberal and communitarian positions is exaggerated. Compared to cosmopolitan liberals, however, communitarians do place greater emphasis on the need for historical, religious, familial ties or some similar link to provide a sense of shared values to counter the egoism implicit within liberal theory. Without such ties in place, inhabitants of liberal societies will not be able to overcome the serious collective action problems faced by every political community. This is certainly not a revolutionary observation. Nor is it exclusively communitarian. Mancur Olson (who was an economist and thus not a communitarian) spent much of his career explaining why uncooperative behavior was perfectly rational. Olson's analysis of the logic of collective action, or more appropriately the collective illogic of individual action, points to the need to place the recent focus in political theory on social capital and social networks in historical context. The cooperation found among Olsonian actors is undoubtedly not what social capital theorists have in mind. If anything, Olson's collective action is social capital from hell. In *The Logic of Collective Action*, Olson shows how social networks can actually prevent problems from being solved in ways amenable to the public interest. Groups need members to survive. In order to increase membership, some organizations become adept at securing "selective incentives," material benefits that they provide exclusively to their own supporters. To provide these incentives, they must find ways to redistribute resources to themselves, yet doing so often means placing their own interests above the collective interest. In game theory and the real world, this act of self-centered defection from the collective good will eventually lead to the crippling or destruction of the very system that provides the resources these groups depend upon for their survival.

In *The Rise and Decline of Nations*, Olson addresses the problem of interest-seeking in a more explicitly political context. Olson believes that there exist within nations interest groups with high incentives to engage in rent-seeking behaviors. Over the life of a nation, these groups become better organized and more skilled at the political maneuvering necessary to acquire

resources. As they succeed in these endeavors, other groups arise to join them in order to prevent their own marginalization. Barring some kind of interruption, the existence of these groups eventually brings about a collapse in the ability of nations to solve even the most urgent of problems.¹⁷

For communitarians, this failure makes perfect sense: the inability to cooperate is simply the consequence of the internal logic of liberalism.¹⁸ In order to examine why interest-theory is a problem for liberal international thinkers, one can look at the figure who has done so much to herald the triumph of liberalism, Francis Fukuyama. In one of the most widely cited, widely critiqued, and least understood works¹⁹ of the post-Cold War period, *The End of History and the Last Man*, Fukuyama argues that liberal democracy is the “final form of human government.”²⁰ Fukuyama has backtracked a bit on the tone, though not the substance, of his original premise.²¹ What has changed is his optimism regarding the ability to hurry the process of democratization along.²² In addition, I believe that while Fukuyama’s defense of liberalism, found in the first half of the book, is somewhat facile, his critique of liberalism in the second half is potent and more relevant today than when the book was first published. Ironically, the lasting contribution of *The End of History* to international relations theory is likely to be its communitarian assessment of liberalism’s defects.

In Fukuyama’s view, liberal democracy has triumphed not only because it produces material prosperity, but also because it is spiritually (thymotically) fulfilling. The advent of liberal democracy as the final stage of the dialectic of historical forms of regimes was also spurred on by the irreversible effects of science and the technology it produces. The clock cannot be turned back; cyclical patterns are no longer possible. The need for technology as a means of military and economic survival necessitates the development of social structures that allow this development to occur in the most efficient way possible.²³ Highly centralized systems of government preclude that development in the long run, despite the possibility of short-term gains. History is directional, and its direction is focused on reaching the goal of liberal democracy, the form of government best able to facilitate political and economic development.

If the end of history is upon us, the question becomes “what now”? Is it possible for liberalism to sustain itself? For if it cannot, liberalism as the end of history must be seriously questioned. At this point, Fukuyama’s defense of liberalism becomes even more distinct from the mainstream. In fact, it is not clear that we are talking about liberalism as the end of history at all. He writes that “Liberal democracies . . . are not self-sufficient; the community life on which they depend must ultimately come from a source different from liberalism itself.”²⁴

This is the core of the communitarian argument made, in this case, by a theorist committed to defending a theory of *sustainable* liberalism. If liberalism is defined by its commitment to individual autonomy, then its sustainability does indeed become problematic. But why should this be so? For

Fukuyama, the “first man” of interest-oriented liberal theory is one with what he calls “Lockean man.” In the attitudes and drives of this first man are found the causes of the unsustainability of liberal polities:

Lockean man did not need to be public-spirited, patriotic, or concerned for the welfare of those around him; rather, as Kant suggested, a liberal society could be made up of devils, provided they were rational. It . . . was not clear why Lockean man should become active in the life of his community, be privately generous to the poor, or even make the sacrifices necessary to raise a family.²⁵

Locke clearly did not believe this tendency toward a narrow view of interests would be the end result of his rationalizing project. He placed a number of circumscriptions around the concept of interest, most of which were derived from natural law. Yet communitarians raise the same question Fukuyama does: what happens once those circumscriptions, justified only by a rational tradition, are removed?

Fukuyama’s critique of interests is similar to Nietzsche’s, who equated bourgeois democracy with the shopkeeping mentality of English liberals.²⁶ The creation of interest-based liberalism is not the heroic and wise individual of Enlightenment mythology but, rather, the “last man.” How to prevent the creation of this last man is, for Fukuyama, the great question for liberal theory to answer. Indeed, it must be answered because, like other liberals, Fukuyama believes that the most important elements of international liberal theory are rooted in domestic politics. It is crucial that liberalism tame irrational tendencies like nationalism – just as it did religious intolerance – in order to secure global peace.²⁷ But liberal nations must also satisfy the spiritual longings that give rise to religion and nationalism. If liberal societies are not self-sustaining, if they do not satisfy such longings or if they cannot motivate citizens towards a larger, more enlightened understanding of self-interest, then they will devolve into tyrannical forms of government as Plato – and Tocqueville – predicted.²⁸ This would put an end to the separate peace among once-liberal nations.

In the end, Fukuyama’s argument concerning liberalism being the end of history is not persuasive. This is certainly not a minority position at present. If the meteoric rise of his thesis was due in no small part to good timing, its decline is also due to the loss of faith in many of the views that the book assumes readers will accept. The tone of the work, and its optimism about the power of economics and the inevitability (though possibly very distant) of democratization, seem in hindsight extraordinarily naïve. However, most of the critiques of his work focus on the first section that deals with these issues, while ignoring the second half of the book in which Fukuyama lays out the most important element of his argument, that it is not economics alone but also the equality of recognition – *isothymia* – in liberal democracies that will lead to liberalism’s triumph.

Given his focus on Nietzsche's argument, it is ironic that Fukuyama's account fails precisely on this issue of spiritual satisfaction. It is unclear why isothymia will prove to be completely satisfying to the inhabitants of liberal societies, or illiberal societies for that matter. He is acutely aware of this problem: megalothymia, a desire to be seen as superior, must continue to have a place in a vibrant liberal democratic state, albeit in a tamed form that does not lead to violence. However, there is no good reason to believe, as he does, that liberalism will be able to tame these megalothymotic impulses. His defense of this position is based upon his reading of recent history, and the experience of the West with the consequences of the unleashing of violence.

Those pro-war crowds in August 1914 got the sacrifice and danger they wanted, and much more besides. . . . By the twentieth century, the risk of life in a bloody battle had become thoroughly democratized. . . . It led not to the satisfaction of recognition, but to anonymous and objectless death. Far from reinforcing virtue or creativity, contemporary war undermined popular faith in the meaning of concepts like courage and heroism, and fostered a deep sense of alienation and anomie among those who experienced it.²⁹

The stakes are so very high in the nuclear age, he argues, that reason in liberal states will prevail. Yet those stakes were just as high in 1962 or 1973, when liberal and illiberal states alike contemplated global suicide. At present, it is not inconceivable that liberal states could be drawn into significant conflicts in ways that could undermine the very foundations of liberalism itself. Many believe this has already begun to occur. At the moment, this appears to be an exaggerated response. Another 9/11, or something worse, is almost inevitable, however, and such an event may very well lead to an unleashing of megalothymia on a world scale. In Freud's judgment – and it should be remembered that he died in 1939 – the desire for death is perennial; there will be no resolution to the inner turmoil that gives rise to such wishes. And Alan Bloom, Fukuyama's mentor, noted that the "joy of the knife" is not merely an artifact of illiberal societies but liberal ones as well.³⁰

In contrast, Fukuyama's *critique* of liberalism proves much more persuasive, though this effect is surely unintentional. The degree to which he genuinely believes that megalothymia and egotism can be tamed by liberal reasoning about the consequences of failure in the nuclear age is unclear. One can only take him at his word on this point. But the dismantling of "Anglo-Saxon" liberalism, i.e. liberalism, is so potent that his final defense pales by comparison. It is not far at all from Fukuyama's critique of the loose ties of affection found in liberal societies to the communitarian exhortations of MacIntyre or Walzer regarding the need for values to arise from within communities rather than be imposed from above by some universal rule-making authority.

Fukuyama does not spend much time discussing the effect that interest-seeking has on solving collective action problems at the international level. This may be because his Kantian-Hegelian argument, which in some ways harks back to the British Idealist movement, rests upon the gradual increase of liberal states naturally to bring about a more peaceful world. But just as his theory fails to establish the basis for interest-oriented cohesion at the domestic level, one could expect to see similar problems at the international level. One could strive in vain to understand why nations ought to contribute to solutions of common problems or why they would necessarily find it in their interests to be satisfied with the status quo when opportunities for aggrandizement appear. This is especially true when we consider that all the worries he expresses about the forces supporting the rise of last men domestically exist internationally, while many of the restraints on individualism, such as shared culture, do not.

Fukuyama's real opponent, Nietzsche, is greatly concerned about the role that economic self-interest will play in the creation of the dystopic future he foresees. Bourgeois capitalism and, even worse, the secular Christianity of socialism appear to be the wave of the future. Fukuyama shares his concerns on both counts, but here again, these concerns would be more aptly applied to the realm of international politics where the restraints of culture and even pity (think Hegel here) do not exist in any great measure.

The Versailles Treaty and its economic consequences illustrate this principle. In *The Economic Consequences of the Peace*, Keynes rightly predicted that the agreement would have disastrous consequences, not only for Germany but for the Allied powers as well. By pursuing their short-term interests, the Allies found themselves facing a suboptimal outcome (a global depression and then global war) in the two decades that followed. Keynes, and US Treasury Secretary Harry Dexter White, attempted to ameliorate these conditions after World War II by placing the global economy on a foundation that would prevent the zero-sum mentality that had made cooperation so difficult in the past. They did this through the creation of the post-war financial system that would eventually include the General Agreement on Tariffs and Trade, the World Bank, and the International Monetary Fund (IMF), all of which were designed to keep the positive-sum system of global trade afloat.

Some have wondered, however, if even at its best, this institutional cure was worse than the disease. This has been particularly true in the post-1989 period of accelerating globalization, when the IMF and World Bank became significantly more powerful in their ability to dictate policy. The infamy of IMF restructuring agreements implemented in Asia after the 1997 crash, for example, followed other equally dubious acts of assistance in developing countries all around the world. But how are these acts illustrations of Olsonian logic? I will take this issue up again in Chapter 7, but for the moment, suffice it to say that, as Eric Stein notes, these two bodies are the only specialized UN agencies organized along a private corporation shareholder model rather than a model of state equality of representation or suffrage.³¹

The IMF is a global institution, but one that reflects the interests of those who designed it (Western states), and those who have led it, primarily made up of members of the Western *haute bourgeoisie*. One need not be a Marxist to take note of the interaction between the interests of private financial institutions and the interests of these international organizations. Gramsci's invisible armies were also at work as the constraints of international markets were objectified into an ideology of necessity that could place a similar set of restraints on states.³²

For good or for ill, the durability of these arrangements depended upon the willingness of the US to exercise restraint in its monetary and fiscal policy, something it was able and willing to do, for a while. This allowed other currencies to be linked to the US dollar, which was itself linked to gold. The US sustained this system until the 1960s when a policy of restraint was no longer politically attractive. By the early 1970s the US was unable to continue paying for the costs of two wars simultaneously, one on poverty and the other in Vietnam, and it promptly defected from the system.³³ In the absence of this standard, exchange rates began to free-float against one another; they also became subject to wild speculation. The consequences of this instability continue to be felt and developing nations feel it most deeply. In addition, those developing states that had put their faith in dollar-denominated assets, i.e. had trusted in the good faith of the US to keep its agreements, saw the real value of these assets decline precipitously in very short order.

Other cases of Olsonian logic abound in a number of different areas of international affairs. As the hegemonic global power, the US tends to be the center of the world's attention with regard to interest-oriented defections. The US is either not a signatory or has signed but not ratified numerous human rights or environmental treaties. In the area of environmental law, the Bush Administration – contrary to all other major powers – refused to sign the Rio Pact. The Clinton Administration, with its talent for creative legal solutions to thorny problems, signed the instrument in 1993 but declared that this signature merely signified agreement in principle. It took similar positions with regard to conventions on climate change and membership of the International Criminal Court. The US Senate also made it clear that the provisions written into the Kyoto Protocol, giving 130 nations significant exemptions to control agreements, were unacceptable. The resolution articulating this concern passed the Senate on a bipartisan 95–0 vote. The second Bush Administration has made it clear that the United States will not become a party to any of these agreements on its watch.³⁴

There are also numerous examples of US defections in arenas of international adjudication or policy-making, even those governed under agreements where the US is a party. In the case before the International Court of Justice (ICT), *Nicaragua v. United States of America* (1985),³⁵ the US was accused by Nicaragua of engaging in paramilitary activities against it, another sovereign state. Rather than allowing the case to be adjudicated, the

US illegally withdrew jurisdiction from the International Court of Justice without giving the six months' notice required by treaty arrangement. After Nicaragua won the case – the US failed to appear – the ICJ held that damages must be negotiated, something the US failed to do.

Arguably the most infamous act of defection in the post-1989 period has been the decision of the US and the UK to invade Iraq despite the absence of UN Security Council authorization. Much ink has been spilled on this issue, so I will only add two comments. First, whatever the benefits of this regime change – and there are unquestionably some significant benefits, particularly for the Kurdish and Shiite populations – the war has clearly had tragic consequences, the full measure of which is still to be determined. Many Americans believed that Iraq posed a problem typical in the realm of politics, one in which there are no good options, only less bad ones. They had no doubt that, barring the use of chemical weapons or some other such contingency, the US military and its allies would be able to occupy the country. However, they also believed that this would prove to be a pyrrhic victory at best, as has turned out to be the case. That many US area experts knowledgeable about the differences between Germany and Japan *c.* 1945 and Iraq in 2002 argued fervently against the war should have raised alarms. That some of the wisest (and most hawkish) statesmen in the US President's own party, many of whom had served his father, opposed the war on prudential grounds should also have raised questions. That the US military itself and experts familiar with peacekeeping argued that the number of troops needed for the occupation would be higher than that needed for the war should have put an end to the discussion of invasion. However, what is most interesting about the enormous debate that exists within the US over the war is that none of the major participants involved, political parties, governing institutions, media outlets and the like has expressed significant and *sustained* concern over the legality issue. The majority of members of the opposition party in the US Senate, the chamber most capable of bottling up authorization for war, voted in favor of granting the President discretionary authority. While concern for UN resolutions is part of the text, there is nothing in the authorization that requires direct approval of the Security Council. Certainly a few editorials appeared expressing the need to work through the UN and a few American politicians made similar comments; but for the most part, concerns about the breach of the UN Charter were found among American academics, intellectuals, and filmmakers.

This comes as no surprise to the growing number of critics of US policy around the world, in whose eyes such acts appear to be standard operating procedure. But, whatever truth exists in this view, this is too simple a response, one that deserves further examination. For there are two other important points this analysis misses. First, the view that the US invasion is somehow qualitatively distinct from the norm is not consistent with evidence drawn from state practice. The US is at present the only state with genuinely global reach. This makes its decisions not to follow international law

quantitatively distinctive and potentially more dangerous insofar as it has a greater capacity to carry out such actions. But the US is not the only liberal nation to flout international law when it is convenient.³⁶ Even a cursory review of state practice reveals that other liberal states do not follow the letter of the laws of armed conflict when their interests are at stake.³⁷ Only a small percentage of the hundreds of offensive operations taking place in the last half century have received full Chapter VII authorization, many of those quite recently.³⁸ In the cases of Korea and the first Gulf War, certainly the most momentous of those occasions, authorization occurred under global political conditions not likely to be repeated.

Similar if less consequential actions occur in other areas of law. One can point to the selectivity of EU states in complying with decisions of the European Court of Justice, or the EU's unwillingness to abide by decisions of the World Trade Organization. One can point to the 1956 invasion of Egypt by the UK and French state complicity in the *Rainbow Warrior* incident, in which agents of the French government allegedly destroyed a Greenpeace vessel and killed a member of the crew.³⁹ And in some cases, US (and EU members') attempts to hold standards higher than those of other states have actually been undermined by international agreements.⁴⁰

There are also numerous incidents in which commitments to enforce agreements have had terrible consequences. I would argue that these failures have done as much to undermine international law as law in the post-Cold War period as have the violations of the law, many of which at least are in accord with some measure of customary practice. The loss of nerve by UN forces at Srebrenica is one example of such a failure, a situation in which a legal mandate existed which the responsible states were not willing to enforce. The culpability of the Dutch is accompanied in this instance by the willingness of the US, France, and the UN itself to deny their share of responsibility with regard to that terrible incident.⁴¹ This was also the case with regard to the UN Secretariat and the developing crisis in Rwanda.⁴²

But there is another, more important point missed by many opponents of US action in Iraq, one that critical theorists should immediately notice. To the degree that one objects to US actions on the basis of its lack of support, one also agrees that the UN Security Council's authority to authorize aggression is legitimate.⁴³ This is an assertion fraught with political implications given the current configuration of power within the UN.⁴⁴ Whatever the virtues of the Security Council may be, it is odd to see so many intellectuals, liberal or otherwise, so attached to an institution that is essentially realist in its structure and procedures. For what is the theory behind the voting procedure in the Security Council if not a reflection of the rough distribution of global power as it existed in 1945?⁴⁵ And if one takes the more cosmopolitan position that the fundamental subject of international law must be the individual rather than the state, a position taken by Charles Beitz⁴⁶ and Fernando Tesón,⁴⁷ then the configuration of power looks even worse given the presence of China among the permanent members. Here

again, the unmentionable inequity of the most powerful component of this institution (liberal in its origins and mission) is covered over by an emphasis on procedures. While some scholars have been more apt to focus on substantive issues, they have only highlighted the gap between concrete-ascending and abstract-descending components of international laws by arguing that when fundamental values are concerned or when the Security Council acts illegally, national courts should ignore Security Council orders.⁴⁸ When the preservation of international justice depends upon violating UN Security Council resolutions not just implicitly (as some critical and post-colonial theorists might argue is almost *always* the case) but explicitly as well, the normative authority of international law is in jeopardy. For this is precisely the sort of morally exhausting legal conundrum that troubled the liberal order a century ago. Nor is it clear why political actors at the state level would be willing to expend political capital to pursue unpopular policies dependent upon ambiguous legal positions. This will be particularly true for leaders in democratic states who must consider the political dimensions of decisions that deal with the most controversial international issues (war, terror, human rights, energy policy, etc.).

What is also significant about this quandary for international liberal theory is that no ethical objections can easily be made to interest-seeking that leads to defection. To do so requires an argument that reaches beyond preferences to some kind of rules. This may not at first seem obvious. It is possible to argue that it is in one's interest to solve problems of pollution and war, for example. But this does not explain why one ought to prefer one solution over another or even which problem to make the priority when, as is always the case, resources are limited. One response to this question would be to return to some form of the harm principle; however, as debates over the commitments I listed on p. 103 illustrate, defining harm or what may serve as acceptable interests requires an appeal to a substantive standard that goes beyond preferences or clear interest-based guidelines. Mill desires to create a space for liberty apart from majorities through the harm principle. But, as I showed previously, his approach encounters significant problems in practice. Even so, in the face of a failure even to meet that requirement, one can at least say that domestically those standards are potentially set by majorities. In contrast, at the international level, they are set by the politically and economically powerful, though such decisions always have domestic effects. What if two democratically elected governments, one rich and one poor, both agree to have a portion of the poor state serve as a toxic waste dump that will not cause harm to either of their neighbors, in exchange for debt cancellation or another consideration?⁴⁹ If the elected government of the poor state weighs the costs and benefits of its options and prefers to go forward with the agreement, can other states object to this and on what basis (particularly in a multicultural world)? Doing so would violate the requirement that we have equal respect for preferences that do not cause harm to us or others outside of the contracting parties. Of course there are excellent

answers to why this decision is immoral and, more importantly, imprudent, but appealing to such answers requires an appeal to something beyond preferences.

The problem only becomes more acute when states' security interests are at stake. For example, democracies often do find war to be in their interests, returning us to the problem of "imprudent vehemence." Furthermore, one can imagine a whole host of preferences more amenable to a rational actor in an interest-based system than redistributing wealth (the left's solution) or the capacity to create wealth (the right's solution). Or upon what basis should liberal nations sacrifice interests for the pursuit of human rights agendas in illiberal nations? When, if ever, is humanitarian intervention justified? Responses to these policy questions imply that there are ethical ends beyond equal respect for preferences and interests to which liberals appeal, thereby resurrecting Fukuyama's point that liberalism must reach beyond itself to be coherent. Neutral principles are not sufficient to motivate the "first man" of liberal theory to transcend himself. Nor are they likely to lead to anything but confusion if they are implemented by a philosophically fastidious government. Communitarians contend that, ultimately, this defect in liberal motivations makes sustainable liberal life difficult, if not impossible, to achieve. At the domestic level, this is an exaggeration; at the international level, where community is more of a metaphor than a reality, it is a much more plausible concern.

Though Fukuyama is influenced heavily by Kant's view of history and his belief in the separate liberal peace, he is clearly at odds with Kant's belief that rational devils can sustain a liberal polity. This aspect of Kant's theory would be labeled by critical legal theorists, like Koskenniemi, as "ascending." Like other commercial pacifists such as Smith, Ricardo, and Bentham, Kant believes that interests provide a bottom-up solution to conflict. But there is also an aspect of Kant's thought that is "descending," one that deals with top-down solutions derived from the rule-making function of pure reason as it affects practical reason. Ascending interests, rooted in the deterministic world of phenomena, and descending rules, rooted in the noumenal realm of free action, stand on opposite sides of an epistemic chasm that cannot be crossed.

Deontological and contractual liberalism

To a large extent, agreement with Kant's ethical principles depends upon agreement with the substance of his epistemology and the way that rationality can and must determine those principles. Consensus on just what Kant's rationality entailed was short-lived for many reasons, the most important of which were epistemic in nature. Kant's first two critiques (*The Critique of Pure Reason* and *The Critique of Practical Reason*) appear to undermine each other. By attempting to provide a foundation for reason in the first and morality in the second that would rival Newton's work in physics,

Kant diminishes our ability to believe in either reason or morality. If the mind organizes phenomena through the categories, then the individual can never have direct knowledge of those phenomena or any kind of reality. Reality becomes a construction of the mind itself.⁵⁰ The appeal to imagination was certainly troubling for the modern project of developing a rational ethic, a point that did not go unnoticed by later realist theorists, many of whom were deeply affected by Kant's thought.

Alasdair MacIntyre explains the dilemma as the imputation of moral content into Kant's ethics in a way that cannot be justified by Kantian methodology.⁵¹ In his view, one finds in Kant's ethics a suspicious correlation between the rational and the pietistic Christian. This criticism echoes that made by Leo Strauss of the neo-Kantian⁵² (and culturally pietistic) Weber, whose intellectual integrity and scholarly values seemed hard to reconcile with the fact-value dichotomy.⁵³ MacIntyre is puzzled by the maxims Kant relies upon to determine whether a moral act is rational, wondering why such maxims as "Keep all your promises throughout your life except one," or "Always eat mussels on Mondays in March," do not pass the test.⁵⁴ Thomas Donaldson is also troubled by this problem. He cites a particularly thorny problem in understanding a deontological approach to rule-making in the UN.⁵⁵ Article 2(4) of the UN Charter forbids states from using force or the threat of force to achieve their foreign policy objectives, yet the Charter also lists two exceptions to this rule: self-defense and force authorized by the UN Security Council. While the UN can make pragmatic judgments regarding what does and does not fall into the category of acceptable uses of force, it is difficult to see how those judgments can be made without an appeal to consequences and context. Furthermore, if these exceptions to 2(4) "are hostage to consequential considerations," then Donaldson wonders "are the principles themselves not also hostage?"⁵⁶ He cites here the two prescribed exceptions to the 2(4) statement on the use of force. But the situation is in fact much more ambiguous. It is not even clear what these exceptions mean. Anthony Arend and Robert J. Beck have found that at least five new principles have arisen since the inception of the Charter, all of which violate a strict reading of the 2(4) exceptions: anticipatory self-defense, intervention in civil and mixed conflicts, intervention to protect nationals, humanitarian intervention, and responses to terrorism.⁵⁷ That these principles, in practice, draw upon older rules of international law (and therefore Western law) supports Koskenniemi's assertion that what the rules are is less important than who is making the rules. But they also show the unworkability of a non-consequentialist theory of international behavior.

Despite these problems, the rule-orientation of deontological ethics is at the forefront of contemporary liberal international thought. Moral and categorical imperatives appear vividly in human rights discourse. These rights transcend any notion of consequentialism or utility; they precede any notion of desert. Presumably any modern discussion of rights founded upon a deontological base will be affected by the problem of finding a way to ground

them rationally when, as postmodernists claim, the whole idea of a unitary rationality is seriously in doubt. MacIntyre goes so far as to wonder how we can distinguish talk about human rights from claims made about unicorns and witches, for one finds assertions made for the existence of both without any evidence being provided to justify these claims.⁵⁸

The Rawlsian solution

To a great extent, the work of John Rawls has focused on ways around these dilemmas. As Thomas Nagel has argued, Rawls is conceivably the most significant liberal thinker of the twentieth century. While his theories do not represent the entire spectrum of liberalism, they have served as the basis for much of the discussion of the virtues and vices of liberal theory found in the debate between liberalism and its communitarian critics. In his *A Theory of Justice*, Rawls constructs his now familiar synthesis of interests and unitary rule-based rationality.⁵⁹ To secure the place of distributive justice simultaneously with interests, Rawls proposes a thought experiment not unlike the state of nature arguments of past theorists. Rawls proposes that we consider a situation in which all individuals are stripped of their specific characteristics such as origin, family, class, and even talents. We are, in essence, blind to any knowledge of ourselves. If we attempt to determine upon what basis goods ought to be distributed, then a Rawlsian answer would lead us to a rule of equality.

Rawls applies the same principle of the equality of individuals to individual states. Doing so should result in the development of fair principles in international relations.

The basic principle of the law of nations is a principle of equality. Independent peoples organized as states have certain fundamental equal rights. This principle is analogous to the equal rights of citizens in a constitutional regime. One consequence of this equality of nations is the principle of self-determination, the right of a people to settle its own affairs without the intervention of foreign powers. Another principle is the right of self-defense against attack. . . . A further principle is that treaties are to be kept, provided they are consistent with the other principles governing the relations of states.⁶⁰

The roots of Rawlsian theory in Kant's ethical formulations have important theoretical consequences.⁶¹ In Kantian terms, the categorically rational and the ethical are inextricably linked together; there is no room for consequentialism or prudential concerns in purely ethical decisions. Kant does recognize a role for consequential calculations, even by morally upstanding political leaders, but that role lies outside what can be considered a genuinely moral basis for policy-making; in this case consistency does not imply identity.⁶² The same is true of deontology which emphasizes the absolute

quality of rights. Yet Kant does not anticipate the way in which moral practice of the kind he describes can lead to pernicious consequences.⁶³

Rawls has thought through the implications of this problem more thoroughly than Kant, but he deals with it by leaving the realm of universal reason and reentering the realm of the cultural and thus the arational, leading the Rawlsian liberal to wonder why this is, and why one ought not to pursue the individually based theory to its logical conclusion. This question is asked by Charles Beitz and Thomas Pogge. For example, Beitz holds that Rawls' transposition of the individual to the state level is flawed. Instead, he believes that the proper unit of analysis, at both domestic and international levels, is the rights-bearing autonomous individual who must be afforded both juridical and substantive equality.⁶⁴ Considerations of state autonomy are not decisive for Beitz; autonomy is superseded by the requirement for social justice as justified by recourse to the Rawlsian contract. If there are significant ambiguities with regard to state autonomy as an absolute principle, this must also be true of the principle of non-intervention.

Human rights concerns are especially significant for the global rights-bearing individual depicted in Beitz's formulation. Consider the military interventions of the US in Haiti, Somalia, Bosnia, Serbia, and other scenes of intra-national conflict. These military actions are precluded by the UN Charter's Article 2(4) which prohibits the threat or use of force by one state against another. Yet I would argue that were one to apply Beitz's formulation of justice to these cases, intervention could also be legitimate on the grounds that individuals in these nations have rights not protected by their governments.⁶⁵ One conclusion that can be drawn from this argument is that intervention is not only permissible in some cases, but actually required if states are to act ethically.⁶⁶ This is particularly true if individuals rather than states are the primary units of international law. If, as Beitz maintains, consent is not held to be an absolute requirement for legitimacy at the domestic level – even in the cases of liberal states – it can hardly be controlling in cases where egregious acts of injustice are frequent and severe. Beitz denies that such circumstances require intervention, but he includes a consequentialist empirical element in his theory that, combined with his view of justice as applicable to individuals rather than the state, makes it unclear why we could not reach this conclusion. Just as there are circumstances in which, from a positive liberty viewpoint, individuals must act to prevent harm to others (a view more consistent with European rather than American law), states ought to do the same to help individuals in another state. This must remain an empirical claim since, as Beitz himself notes, the prudence of intervening or not intervening depends on a multitude of factors. By limiting the political "jurisdiction" of principles of justice, Rawls avoids the issue of intervention; however, I would concur with Beitz that he does so at the cost of consistency.

Rawls' Political Liberalism and communitarian critiques

Rawls' early contractarianism was a monumental contribution to modern ethical theory. Even so, his theory continues the pattern begun by earlier liberals of assuming that enough associational cohesion exists to organize decisions made by individuals exercising liberty on a neutral basis. Roberto Unger is particularly dubious about the claim to neutrality found in Rawls' theory.⁶⁷ His concerns about deontological liberalism center on the inability of the theory to find "a neutral way to combine individual, subjective values."⁶⁸ When it comes to matters of actual legislation, Unger argues, the neutrality principle of liberalism shows itself to be unworkable.⁶⁹ Like Koskenniemi, Unger believes that liberal thought cannot solve the contradiction between ascending and descending principles. The rule-making or legislative function requires a certain concreteness that accounts for individual preferences in very specific areas; however, those preferences must be dealt with neutrally, that is, according to some descending principle of fairness. What fairness means must be determined apart from individual preferences; but that becomes impossible given the fact that, in any real polity, there is profound disagreement by individuals on how fairness is to be applied in particular areas.⁷⁰ One can say that moral and religious differences must be placed outside the realm of public discourse, but that does not solve the problem of value-allocation. As Unger notes, it only postpones it. Koskenniemi has similar concerns, arguing that Rawls' theory leads to "embarrassing questions about how to justify our concept of 'fairness' so as to avoid the objections voiced against naturalism."⁷¹

Michael Sandel also finds Rawls' theory troubling. Sandel sees the hypothetical contract not as the liberating device it was meant to be but just the opposite, a means of disempowerment. The deontological self is devoid of moral experience. Its preferences are arbitrary because there is really no "self" to draw upon.⁷² In response to the objection that it is only private ends and attachments that are excluded from the scenario, Sandel argues that the ability to distinguish between public and private requires just the sort of substantive commitments not admissible to Rawls' theory.⁷³

Rawls himself was troubled by many of these questions. In fact he had already attempted to address some of the earlier critiques in *Political Liberalism*. Whereas *A Theory of Justice* was grounded in a Kantian understanding of rationality and personality, in *Political Liberalism* Rawls narrows the scope of his theory. He focuses on the political realm rather than comprehensive theories that encompass an understanding of the totality of human experience. Political liberalism seeks only citizens who "share a reasonable political conception of justice" upon which most, though probably not all, cases can be decided.⁷⁴ Rawls' theory is limited to political decision-making in democratic societies. For the first time, we see an emphasis on – rather than just an honorable mention of – the political culture and history of liberal societies. In accord with the turn to political culture, Rawls begins to think in

more diachronic terms, and doing so leads him to a remarkable conclusion: he suggests that we adhere to a principle of justice as fairness in the beginning because of religious and moral beliefs, but eventually we value justice because it is good in itself.⁷⁵

Sandel recognizes the changes in Rawls' theory but, again, sees the argument as fundamentally flawed. First, Rawls would bracket moral questions in order to secure a greater level of political cooperation, but in Sandel's view, this means one must also assume that any moral or religious claims are untrue. If they were true, they might have preeminence over the value of political cooperation. For example, if it is true that slavery is an absolute wrong, then the value of political cooperation and consensus-seeking cannot trump the claim that slavery must come to an end.⁷⁶ Of course, the problem is that not all cases are as clear as slavery. Even there, the reasonableness of the abolitionist position was apparently not obvious to most of humanity until quite recently, and the path toward consensus on this issue was a very bloody one.⁷⁷ However, I agree with Sandel that the case of abolition highlights the gap in Rawls' theory between the beliefs that are to be bracketed and the actual experience of liberal politics. Rawls writes:

On this account the abolitionists and the leaders of the civil rights movement did not go against the ideal of public reason; or rather, they did not provided they thought, or on reflection would have thought (as they certainly could have thought), that the comprehensive reasons they appealed to were required to give sufficient strength to the political conception to be subsequently realized. . . . The abolitionists could say, for example, that they supported political values of freedom and equality for all, but that given the comprehensive doctrines they held and the doctrines current in their day, it was necessary to invoke the comprehensive grounds on which those values were widely seen to rest.⁷⁸

This approach, however, involves significant question-begging, since abolitionists were not interested in invoking comprehensive doctrines to achieve equality; rather, they viewed their doctrines as defining equality itself. The view that equality means equality for all is by no means a neutral principle. One could exclude certain persons through the use of any number of criteria that reflect specific ontological assumptions embedded in what otherwise appears to be a neutral political conception.

Sandel next takes up the limits of liberal public reason. Public deliberation, in Rawls' conception, must be sterile and narrow, focusing on the procedural in order to avoid moral and religious debates. Sandel points out that, in the case of abolishing slavery, public discourse relied heavily on religious ideals. Rawls acknowledges this problem and deals specifically with the link between evangelical Protestantism and early abolitionist movements. But his answer seems awkward at best, relying upon the notion that at times it may be necessary for such discourse to turn to comprehensive moral theories

in order to bring about the kind of society in which more rational appeals are possible.⁷⁹ It may in fact be necessary “that for a well-ordered society to come about in which public discussion consists mainly in the appeal to political values, prior historical conditions may require that comprehensive reasons be invoked to strengthen those values.”⁸⁰

My question is similar to Sandel’s. How can we possibly know if our own liberal polity is ready for such appeals? At what point is it no longer permissible to rely on comprehensive moral or religious ideals in public discourse? Imagine the impoverishment of the public discourse of Gandhi, Desmond Tutu, the Dalai Lama, or Martin Luther King Jr had their comprehensive arguments been bracketed. Surely their claims and the rationale for holding them involve “public language?”⁸¹ Yet these claims are inappropriate in the deontological world where moral and religious appeals cannot play a significant role in reasonable public discourse.⁸² Rawls would be likely to reply (and in the case of King, does reply) that these examples only prove his point: in each case, the comprehensive doctrines are attached to public values understood and appreciated by an enormous number of people the world over. Desmond Tutu’s Anglicanism was not problematic in the conflict over apartheid because apartheid clearly violated justice as fairness. He is widely admired for his advocacy of justice, not in any defense of a doctrine of a monarch serving as defender of the faith (not that one would likely be forthcoming) or even in the inherent rightness of Christianity (just as unlikely). Yet this response assumes that the set of values that serves as the basis for public reason is now fixed. Such an assumption appears ridiculous when made by liberal imperialists a century ago. But is it certain that there are not currently comprehensive views that violate public reason or the contemporary applications of neutral principles in areas of justice and equality that will not be the basis for important changes in what will or should become public reason in the future? Earlier changes came about in the midst of severe conflicts over a variety of versions of the good, all of which required an assertion of one comprehensive view over another one. The rise of liberalism involved (Weber would remind us that it did not *require*) the replacement of an absolute divine right of rule theory with a non-absolute divine right theory, and then an interest-based theory of governance. In other words, it meant replacing an extreme comprehensive religious view with one less extreme. There is nothing whatsoever that is neutral about my choice of words there. The use of the term “extreme” implies a mind already made up about the proper, though not inevitable, direction of history, one with comprehensive commitments at its core. For Rawls, the development of liberalism appears to be evolutionary; however, it is best understood as ideologically revolutionary, a conflict (preferably without violence – another value-commitment) over comprehensive theories, which include the decision rules themselves that lead us to understand what the proper applications of terms like justice and equality should look like. On religion in King’s discourse, Rawls writes, “Religious doctrines clearly underlie King’s views and

are important in his appeals. Yet they are expressed in general terms: and they fully support constitutional values and accord with public reason."⁸³ I would disagree. King did more than support constitutional values: to a large extent, his work provided moral and political legitimacy to a new interpretation of what those values meant.

Similar attempts to change the substantive meanings of value-terms are, of course, going on the world over. At present Shirin Ebadi, an Iranian dissident and recipient of the Nobel Peace Prize, provides one of the most compelling examples of someone speaking a very public language in ways that arise from her very personal experiences as a Muslim and as a woman, two characteristics that hardly lend themselves to a theory dependent upon actors remaining in a state of ontological obscurity. Her words are directed toward one of the most important issues of our times, the need to develop societies in which women can choose to live lives they value. Given this broader objective, one might suppose that her work falls within the scope of public reason. But her words are formed from values deeply affected by religion and, perhaps, unimaginable without it. Her desire is not to create a neutral public discourse, but an altogether different interpretation of a comprehensive view. Ebadi's hope is to contribute to the conversation about the relationship between religion, law, and gender within her own faith.⁸⁴ Surely this is one of the most significant conversations occurring in the world today. Yet there is a kind of chronological snobbery⁸⁵ at work in Rawls' view, since progress is dependent upon the secularization of language and the ideas it expresses, whereas the success of Ebadi's project is much more likely to rest not in movement away from religious discourse, but rather in its *emphasis*. This process is already ongoing; it involves not just reinterpretation of the holy, but also, and perhaps more importantly, simply remembering what has already been. There are few images that can be more powerful than those already discussed by historians of science and culture that juxtapose the scholarly accomplishments and development of medieval civilization in the history of the Islamic world and those of Christian Europe. But engaging in this kind of conversation means rejecting the neutrality of liberal doctrine in order to further the very toleration liberalism is supposed to secure and preserve.

The Rawlsian liberal is not so much neutral as neutered. Religion played an enormous role in persuading the proponents and opponents of slavery that they were in the right. Had abolitionists come to the public square with proper public discourse, it is likely they would have been demoralized and defenseless as their opponents captured the imaginations and the passions of their listeners. The same is true of ideology. Union organizers, revolutionaries, socialists, and nationalists risked life and limb not on the basis of reasonableness, but to secure a place for views connected with their own comprehensive doctrines. Rawls' public discourse, for all its virtues, focuses on the mind; whereas, politics, as Plato and Gramsci knew, is a contest that also occurs in the arena of the spirit.

As is the case in other liberal theories that are ostensibly neutral toward comprehensive theories, Rawls appears to know more than his theory should allow regarding the direction and substantive effects of public reason. One need only look at his use of the US Supreme Court as an example of how public reason ought to operate to see why this is so. Jurisprudence moves in one direction in his view, toward the application of justice and equality in accord with constitutional principles. Justices must already know what justice and equality entail then in order for them to carry out this task. Furthermore, he writes that the “Constitution is not what the Court says it is. Rather it is what the people acting constitutionally through the other branches eventually allow the Court to say it is.”⁸⁶ Allowing popular opinion to alter jurisprudence allows for the kind of peaceful evolution that occurred during the Roosevelt administration, for example, a process that can bring policy closer to the “original promise” of the Constitution. Yet Rawls also knows where limits to that process lie. The people could not, for example, repeal the First Amendment, at least not with the Court’s blessings, since that would violate long-standing precedents and entrenched law. “The successful practice of its ideas and principles over two centuries place restrictions on what can now count as an amendment, whatever was true at the beginning.”⁸⁷ There are two problems with this approach. First, it commits one to an egregiously Whiggish view of constitutional interpretation, a point made clearer upon examining Rawls’ views on abortion and family law, both of which bear an extraordinary likeness to the conventional academic wisdom regarding those issues.⁸⁸ The notion that there are such things as constitutional principles that appeal to public reason alone is not credible in the age of judicial studies and legal realism, and certainly not in the era of critical legal studies, a point I will return to. The second problem is that very few constitutional controversies present us with the level of entrenchment Rawls relies upon in his example of repealing the First Amendment, not least of which are most cases dealing with the First Amendment itself.⁸⁹ Constitutional dilemmas occur most often because of a clash of values that can all be supported by an appeal to public reason. The internal workings of the black box that can create reasonable opinions (in Rawls’ sense) based on public reason alone remain a mystery. Liberal rules do not take us necessarily in the directions liberals citing the rules would indicate. Rawls seems to know where he wants to go, normatively speaking, but the signs he leaves for the rest of us to follow point in several directions at once. The attempt to isolate appropriate public discourse commits the Rawlsian liberal to a demand for intellectual hegemony, an Archimedean point allowing him or her to determine the bounds of the reasonable. In the post-positivist era, such a claim already appears suspicious and difficult to defend, for the ostensible virtue of Rawls’ theory was precisely the degree to which one was not required to appeal to such a position. It also excludes him or her from many, if not most, meaningful discussions worth having in the world, and nearly all of the discussions involving peace and justice with those outside the sphere of enlightened liberal opinion.

In *Political Liberalism*, Rawls seeks to develop a theory of limits commensurate with liberal life, but his focus on what is reasonable prevents him from achieving what appears to be his real objective, that of creating a rationale for limits on behavior. Were all humans, whatever their belief systems, amiable and benign, is it likely that Rawls would be as concerned with the arational? His book *The Law of Peoples* leads me to believe that the answer would be no. For it is in this work that he deals most thoroughly with international relations and it is here that he makes the most room for arationality in the form of political culture. Whereas in *A Theory of Justice* and *Political Liberalism* culture plays a minor role in the development of liberalism, after which it can safely be relegated to the margins of consciousness, in *The Law of Peoples* culture is critical to the project of maintaining the decent attitudes, institutions, and processes necessary for liberalism to function effectively. For example, in what sounds like remarkably communitarian language, Rawls suggests that it is an inherent good for “individuals and associations to be attached to their particular culture and to take part in its common public and civic life.”⁹⁰

Rawls also argues that there are limits to the duty of one state to help another economically once the wealthier state has assisted the poorer one to meet its basic needs, something that surely requires close contextual examination.⁹¹ Given the importance of redistribution in his justice as fairness approach, this is a remarkable position. The justification for this claim, one he contrasts to Beitz’s more impartialist approach to redistribution, lies in the fact that a country’s economic success depends less on natural resources (which must necessarily remain behind the veil) than on political culture, “its members’ political and civic virtues.”⁹² One might pass over this language by arguing that Rawls means here only that by virtues he means choices accessible to instrumental reason. Yet the examples he provides to press this point make such an interpretation difficult if not impossible to sustain. First, he makes a qualified appeal to David Landes’ book *The Wealth and Poverty of Nations*.⁹³ Landes’ position is neo-Weberian insofar as he claims that wealth differentials are due almost completely to cultural differences, such as attitudes toward work, a willingness to experiment with new solutions to old problems, and a willingness to take risks. Whatever the merits of Landes’ claims, his independent variables arise to a significant degree from comprehensive sources, what he refers to as “values and institutions.”⁹⁴ Next, Rawls discusses two hypothetical illustrations of cultural difference that show not only why redistribution may be unnecessary, but unjust in some circumstances. First, he considers two “well-ordered” (liberal or decent) societies with different value-preferences. One prefers to take the path of industrialization, financed by a higher savings rate. The second prefers to preserve a pastoral way of life and thus remains less developed in the conventional sense. Rawls wonders how redistribution from the first society to the second could be just, given the voluntary nature of these economic decisions. The second example involves two societies, one of which

encourages “equal justice for women” more than the other. In the first society, population growth is likely to decline while levels of wealth increase. Given that women in the second well-ordered society have chosen for religious or social reasons to continue to have many children, redistributing wealth from the first to the second society would be unjust.⁹⁵ The principle underlying these cases – that liberty and the consequences of choices freely made must be at the heart of the just society – does not deviate significantly from his original conception of the balance of procedural and substantive elements of justice found in *A Theory of Justice*. What is remarkable is the nature of the examples, the second one in particular, and what they reveal about the effects of political culture and virtues. If political culture is critical to success, and cultures arise from patterns and practices that find their origins in comprehensive beliefs, then it follows that the success necessary to reach a level of development conducive (though not determinative) to producing the tolerance and forbearance critical to liberal societies depends in some measure on comprehensive beliefs. This finding does not move us significantly beyond the arguments in *Political Liberalism* I discussed above; but here their application is universal and more relevant given their connection to global development issues.

Rawls’ approach closes off the ability of peoples to engage in meaningful moral discourse with one another. Liberal societies should not coercively attempt to convert decent societies, he argues, but should attempt to develop a political environment characterized by mutual respect, one in which decent societies can eventually understand on their own the value of liberal life. The line between coercion and respect is quite blurry, however, and it remains unclear how liberal individuals are to judge between decent and outlaw societies without recourse to comprehensive views that give them some basis upon which to make such judgments. One of the central components of a decent society is that it protects human rights like life, liberty, and formal equality. I would certainly agree with Rawls’ characterization of the decent society. Yet in practice definitions of these terms becomes difficult without some clearer and more substantive view of the good. Protecting such rights is not a mandate that obviously arises from the rational neutrality of decent or liberal peoples. An end is presupposed, one that implicitly provides the imaginative boundaries and substance of Rawls’ vision. In *The Law of Peoples*, he desperately wants to justify a beneficent, substantive, material theory, while still relying upon the procedural neutrality he believes liberalism requires.

My larger point here is not to argue with the substance of Rawls’ vision for a global system ordered around a law of peoples. His description of global governance sounds roughly covenantal as it preserves “significant room for the idea of a people’s self-determination and for some kind of loose or confederative form of a Society of Peoples.”⁹⁶ Indeed, the closer Rawls comes to practical matters of global governance and policy-making, the more covenantal his vision begins to appear. Instead, my concern is that one

cannot reach that end point through Rawlsian theory of public reason; reason of this kind hegemonically sets the boundaries of legitimate public discourse in such a way so as to exclude the very preferences that make life meaningful for many political actors in liberal societies. Rawls wants to preserve the kind of thymotic attachments so critical to Fukuyama's theory of liberalism, such as "proper patriotism," without conceding, as Fukuyama does, that such attachments arise from the arational realm of wars of the spirit, i.e. from sources impenetrable to public reason.⁹⁷ It is no good to respond by claiming, as Rawls does, that public reason makes plenty of room for the arational in "background culture,"⁹⁸ i.e. civil society and the origins of political views, or that "declarations," assertions based on comprehensive claims that seek to justify common ground with others, solve this problem. Somehow, we are to believe that the public goals we seek to support are not themselves developed and defined by comprehensive views, and that these views are only public insofar as they serve as means to a pre-determined end justified by reason.⁹⁹ Just as Kantian reason led straight to Lutheran respectability, and nineteenth century liberal reason led to the white man's burden, contemporary liberalism's neutral principles of public reason lead to what looks suspiciously like the conventional wisdom of those with cultural power, as Gramsci would have understood that term. The difference is that now, Mill's barbarians lie not in some distant colony a half-world away; rather, they reside much closer to home.¹⁰⁰

Communitarianism as a corrective

The positions I have described as communitarian are valuable as critiques of liberalism, but they do not stand alone. Communitarian thinkers are certainly not arguing that liberal politics be dismantled in favor of some Athenian ideal. As Benjamin Barber rightly points out, "Contemporary America remade to specifications of ancient Athens would probably come to resemble not Athens but wartime Berlin."¹⁰¹ Glendon advocates a turn from law to politics as a means of strengthening community. Where the rights discourse of liberal jurisprudence creates absolute claims and reinforces elite power, politics allows for more participation in the development of policy.¹⁰² It also provides more room for the consideration of obligations. Walzer also believes communitarianism should be seen as a corrective to liberalism rather than as a self-sufficient theory.¹⁰³ His international theory is consistent with this statement. States have the right to be governed only by their consent. The legal principle of non-intervention is important as it reflects communal autonomy,¹⁰⁴ though state behavior may be subject to international social criticism.¹⁰⁵

That communitarianism exists only as an ideal type is also confirmed by the fact that many political theorists who have been placed within the communitarian camp, like MacIntyre, Walzer, or Sandel, either deny the appellation's appropriateness or carefully redefine it.¹⁰⁶ Even as an ideal type,

communitarianism is problematic as a constructive political theory because it is difficult to determine just what the term entails apart from serving as a critique of liberal or cosmopolitan excesses or as an admonition to consider more fully the consequences of state policy or markets on family and community life. The further one moves from the realm of theory to practice, the more difficult it becomes to distinguish between cosmopolitan liberalism and communitarianism.

The critical legal argument against liberal jurisprudence

Critical theorists argue that liberalism privileges the discourse of law because doing so allows liberals to mask acts of power through universalist language. Members of the Frankfurt School, for example, share a largely negative perspective of the Enlightenment with postmodernist thinkers. Other critical theorists, Habermas in particular, attempt to preserve a set of tentative attachments to the Enlightenment project, for which they have been roundly criticized by poststructural postmodernists and feminists alike.¹⁰⁷ Feminists are especially concerned about the assumptions of gender neutrality contained in the structure and language of Enlightenment discourse, even when the bounds of such discourse remain decentered and open to revision. Whatever their view of the Enlightenment, critical theorists are generally optimistic about the emancipatory potential of discourse, a fact that arises from the belief in the possibility of systemic economic transformation. Gramsci's thesis regarding the reproduction of hegemonic power through culture, through the formation of what Nancy Fraser aptly refers to as "the fund of self-evident descriptions of social reality that normally go without saying," also plays an increasingly important role in critical theory.¹⁰⁸

In this section, I examine the critique of liberal international law made by legal scholars within the Critical Legal Studies (CLS) movement, which incorporates many of these perspectives. Properly construed, a deconstruction of liberalism requires more than just the revelation of flawed arguments. The process involves showing how categories of thought are built upon binary conceptual oppositions, one side of which will then be privileged at any given moment. Martii Koskenniemi argues that liberal jurisprudence contains such oppositions, the most important of which are the "ascending" requirement that the legitimacy of the social order rest upon the consent of the now autonomous governed, and the "descending" requirement that law be based on objective, neutral principles.¹⁰⁹ This opposition is absolutely necessary to liberal theory, yet the components of each stand opposed to each other. The same problem exists at the international level, where one finds international ideals like human rights, peace, and the universal requirements of law, but also consensual principles like sovereignty, self-determination, and individual conceptions of national interest. The ideal of liberal community depends on the ability of sovereign,

autonomous individuals, or in this case states, to make rules for themselves. The ideal of sovereignty depends upon a belief in interests as preferences which are outside ends-oriented (i.e. substantively or materially) rational criticism. At the same time, liberal internationalists have been among the most vocal advocates of the ideals of law and peaceful relations among states. In Chapter 3, I argued that this same opposition existed in the early part of the last century as liberals developed a vision of a new world order based on such principles, while pursuing suspiciously self-interested imperial policies. However, many critical theorists, particularly those within the CLS movement, see something similar occurring today, with powerful states achieving their own objectives in the name of international ideals. They are concerned with the way the language of neutrality, combined with the liberal focus on procedure, conceals substantive inequities in the global distribution of power and resources. Moreover, the similarity between their concerns and those of realists is striking.

Nigel Purvis, explaining CLS theory in international law, writes that the “intellectual origins of the movement are in Legal Realism, New Left anarchism, Sartrean existentialism, neo-progressive historiography, liberal sociology, radical social theory, and empirical social science.”¹¹⁰ From Foucault, some CLS theorists borrow the notion that power creates consciousness which is perceived as “truth” (*pouvoir/savoir*); from Derrida they take what Heidegger called a “pernicious ontological relativism” that leads to a problematic use of the indeterminacy principle. A completely consistent version of this principle leaves little room for any emancipatory potential arising from political discourse.¹¹¹ The more limited, and useful, version of the principle as applied to jurisprudence holds that no particular adjudicated outcome is necessitated by a given rule of law, and that law is actually politics relying upon legal language.

Nietzsche also has some significant influence. While Nietzsche’s thought was brought into the mainstream of the social sciences through Weber, it entered into jurisprudence largely via the CLS movement. His illiberalism and anti-humanism, however, are mitigated by the addition of elements of Marxian theory, typical of the Frankfurt School in the early part of the twentieth century. One might say that Nietzschean procedure is combined with Marxian substantive norms in critical legal theory. Members of the CLS movement make two primary arguments regarding jurisprudence that draw on both Marxian and Nietzschean themes, namely that ethics are social constructs and that the language of reason masks assertions of power made by the will.

For many CLS theorists, politics is the realm of creative, not rational, activity, for rationality as such is a chimera. Because every rule is the simultaneous expression of an emphasis *and* a marginalization of some aspect of ideology, rules incorporate their opposites within their definitions, and give way to thinking about rules in terms of binary oppositions. These oppositions predetermine the avenues of discourse possible in legal reasoning.¹¹²

From this principle follows the belief that law is simply politics, and politics is the outcome of the conflict of social forces representing classes or some other social groups, some of which are dominant and others of which are oppressed. Judges can never speak or find truth understood in neutral terms; their rulings will inevitably favor a specific class or group. Because those interests represent inherently distinct forces, they cannot be rationally adjudicated and no compromise based on neutral principles is possible. Compromise implies an “arena” view of government that can somehow serve as a neutral playing field for the representation of interests.¹¹³ Thus, no outcome can be stipulated by an apolitical principle, legal or otherwise.

With regard to legal interpretation, Mark Tushnet, a founding member of the CLS movement, explains how the indeterminacy principle undermines originalist or interpretivist approaches to the study of American constitutional law. Critiquing the liberal agenda of constraining judicial tyranny by relying on neutral interpretive principles, Tushnet, in a rather Kantian fashion, states that the application of neutral principles requires an “imaginative transposition of former world views into the categories of our own.”¹¹⁴ Somehow, the past must be made to fit the present. But this cannot be done on a neutral basis. “The existence of such an indeterminacy means that interpretivism, unless it falls back on nonliberal assumptions, cannot constrain judges sufficiently to carry out the liberal project of avoiding judicial tyranny.”¹¹⁵ Tushnet is not just criticizing narrow interpretivists, often characterized as judicial conservatives, but any interpreter who lays claim to an interpretation of a past case in support of a present ruling. *Stare decisis* is an illusion used to propagate the notion that what is happening on the bench is somehow furthering a neutral conception of justice as opposed to political goals. Given the degree to which liberals rely upon legal principles at the domestic and international levels, this is no small matter.

Tushnet’s analysis may seem unremarkable given the prevailing empirical, policy-oriented approach to judicial studies in American universities.¹¹⁶ However, one need only consider the role that law plays in Rawls’ public reasoning, the importance of constitutional law in the liberal debates over “deliberative democracy,” or the focus on international law in liberal international relations theory, to see why his analysis has serious implications for liberal political theory. The CLS movement has uncovered the contradictory bases of operation and the inconsistencies between procedural and substantive components of liberal jurisprudence, and revealed the fact that contemporary liberal law is praxis without theory. What was true for Fukuyama’s defense of liberalism is also true of the liberal defense of law. As Tushnet points out, liberals must appeal to non-liberal assumptions to make sense of the rule of law, something they cannot do. To be successful, then, liberal jurisprudence must hide its own premises by focusing on process and covering over its substantive components with the language of neutrality.

The first critique: the arbitrary choice of socially constructed values

Similar political and legal arguments are made at the international level. The most powerful means by which international legal discourse hides its own premises is through the elevation of procedure.¹¹⁷ Like Koskenniemi and Unger, CLS theorist David Kennedy believes that “Discourse about process . . . dominates the field of international law. If process rules supreme, moreover, it also rules alone.”¹¹⁸ The marginalization of source doctrines and substantive standards in favor of procedure gives rise to a focus on sovereignty insofar as the entire project of law becomes the proper determination of whether consent (treaties) or compulsion (custom arising from historical standards) will prevail. From this determination comes the debate between natural and positive law that fills the law journals and texts on jurisprudence. It is one of those debates that is interminable. The premises of each legal tradition give rise to the other and no conclusion can be reached based on a neutral principle that transcends both natural and positive arguments. Ironically, these inconsistencies did not exist in premodern legal theory because there was a clear substantive element to law. Natural law theories rooted in theology contained obvious appeals to moral, material, and political ideals. There was no attempt to create substantively neutral principles because rationality had a clear teleological component. Only with the transition to moral Newtonianism did such a need arise.

Critical legal theorists see liberal international law as incoherent, relying upon premises that undermine each other. Liberal law rests upon the fundamental principle of individualism as state sovereignty, “international life’s unencumbered unit.”¹¹⁹ Added to this is the liberal belief in subjective value, which Purvis describes as the view that “moral truth and moral worth are subjective, because as an epistemological matter universal morality is unknowable.”¹²⁰ As a result of these assumptions, the decisions of sovereign states must be held to be of equal moral validity. But this is the point at which liberal jurisprudence becomes contradictory. “[L]iberalism cannot deny the existence of objective value and at the same time claim to resolve international conflicts through an appeal to rules of objective neutrality.”¹²¹ For example, we could apply Mill’s harm principle to international law, stating that liberty is absolute in the absence of one state harming another. But to do so, we must appeal to some kind of objective standard of harm that serves as a threshold for illegality.¹²²

I have already discussed a number of contradictions in state action under the UN system in the context of collective action failures and the pursuit of interests. They also reveal how policy-makers privilege one side of an opposition (e.g. human rights/sovereignty; self-defense/aggression) or another to reach specific interest-oriented outcomes. It is the indeterminacy of law that allows states to justify defection from collective action. Let me return momentarily to the example of aggression and the UN Charter.

Article 2 of the UN Charter discusses international activity in terms of “members,” meaning states. And clear limits are placed upon international jurisdiction over these states:

Article 2(3): All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

Article 2(4): All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the Purposes of the United Nations.

Article 2(7): Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter.

Concern for state sovereignty is also evident in the Statute of the International Court of Justice (ICJ). States signing the UN Charter automatically ratify the Statute and accept its provisions for international adjudication. They do not, however, grant compulsory jurisdiction to the Court except by ratifying the Statute’s optional clause found in Article 36. This mechanism was put into place in order to preserve national autonomy over international affairs, and most states who have ratified the clause have done so with reservations excluding certain areas from ICJ jurisdiction. Exceptions to the rules prohibiting international aggression are outlined in Chapter VII of the Charter, which provides for Security Council authorization of force in some cases or for the self-defense exception found in Article 51. And, despite the prohibition on intervention in domestic affairs, UN members have become more involved in civil conflicts. Ironically, many interventions in civil wars occur when states assist one side or the other in the struggle for self-determination, itself a form of sovereignty claim.

Much has been made of the actions by the US and the UK in Iraq; but in that instance, these two countries violated clear procedures of law. One could argue that the system failed because two permanent members ignored the very procedures they themselves had created. However, only a few years prior to the Iraq invasion, another violation occurred in Yugoslavia, one in which almost all liberal developed states were complicit. Not only did their actions violate the UN Charter, they also violated the collective security agreement governing military action by the states, one which they had reaffirmed only a decade before. The first major independent engagement by the North Atlantic Treaty Organization (NATO)¹²³ reveals much about the paradoxes of liberal theory. In the case of the NATO bombing of Serbian territory, NATO forces were technically in violation of the UN Charter and

the international law arising from it. They also violated the North Atlantic Treaty through which NATO was created. Article 1 of the Treaty states that NATO will only use force consistent with the principles of the UN. Article 3 states that collective military action will be used to resist “armed attack.” Article 5 states that military action is justified under Article 51 of the UN Charter which allows collective self-defense, a provision first invoked after the attacks of September 11, 2001 on the US.

Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council [of the UN]. Such measures shall be terminated when the Security Council has taken measures necessary to restore and maintain international peace and security.¹²⁴

And in Article 7 we find:

This treaty does not affect, and shall not be interpreted as affecting in any way the rights and obligations under the Charter of the Parties which are members of the United Nations, or the primary responsibility of the Security Council for the maintenance of international peace and security.¹²⁵

These principles were reaffirmed in the official NATO Communiqué issued at the London Summit held in July 1990. NATO members met there to reassess the objectives and purposes of NATO after the end of the Cold War.

Alliance strategy will continue to reflect a number of fundamental principles. The Alliance is purely defensive in purpose: *none of its weapons will ever be used except in self-defence*, and it does not consider itself to be anyone’s adversary.... The forces of the Allies must therefore be able to defend Alliance frontiers, to stop an aggressor’s advance as far forward as possible, to maintain or restore the territorial integrity of Allied nations and to terminate war rapidly by making an aggressor reconsider his decision, cease his attack and withdraw. The role of the Alliance’s military forces is to assure the territorial integrity and political independence of its member states, and thus contribute to peace and stability in Europe.¹²⁶

Nowhere in the rationale of NATO is there a provision justifying the offensive use of force against a sovereign nation. To make sense of their actions, NATO forces appealed to the principle of humanitarian intervention which they defined in their own terms and which does not appear in the charters of NATO or the UN. Of the nations engaged in bombing Serb forces, three have permanent seats on the Security Council. This is not to say the bombing was not morally justified, only that it reveals the contradiction

between the *de jure* and de facto (or ad hoc) elements of liberal international law. Upon close examination, the ad hoc construction of legal reasoning to justify political decisions appears to be at work in international law as well.

The second critique: law masking power

International law has incorporated the oppositions of domestic liberal jurisprudence such as the ascending/descending and naturalist/positivist dichotomies described by Koskenniemi. But in the post-Nietzschean period, when values are created and not found, no objective ethical prescriptions or theories of natural right can stand alone. They are all socially constructed. Legal arguments must favor one side of an opposition, but there is no material or substantive metatheory to which the argument may appeal for ultimate justification. If that is the case, as Nietzsche's assertions indicate, then what do we make of rational legal assertions? They are simply the language of legal process masking the exercise of power. This is the second critique made by CLS theorists of liberal international law and, interestingly enough, by realist critics of liberalism in general.

Liberalism is founded upon the consent of autonomous self-interested individuals. These individuals seek their own interests in opposition to one another; however, this opposition leads to the greater good as long as there are procedural safeguards. No predetermined ends, even about what makes for proper regulation, are in view to justify the exercise of legal rationality. As Unger notes:

The ideas that there is no natural community of common ends and that group life is a creature of will help explain the importance of rules and of their coercive enforcement. . . . The less one's ability to rely on participation in common ends, the greater the importance of force as a bond among individuals. Punishment and fear take the place of community.¹²⁷

While there may be limits to the domestic applications of Unger's critique, at the international level it is highly descriptive. At this level, limitations on domination are less clearly defined; liberal states are freer to act as they please. Liberal states can choose which side of a binary opposition will be used to justify any given action. If aggression is deemed necessary, it could be justified on the basis of self-defense (autonomy-positive law) or international morality (community-natural law), depending upon the circumstances. I have already given several examples of this operation as it applies to the indeterminacy of value-choices. But these examples also reflect the way that law masks coercion in the international sphere. For example, in *Nicaragua v. United States of America* the US relied upon the autonomy argument, denying jurisdiction to the ICJ. The US argued that solutions to the conflict should be political and regional. In its 1946 agreement with the

ICJ, the US created the Connally Amendment, which states that the US will determine which cases are justiciable under ICJ jurisdiction and which are not. This amendment underscores a fundamental type of sovereignty claim that has no domestic equivalent. In *Nicaragua*, the US relied upon a reservation, arising out of the Amendment, stating that cases involving multilateral treaty obligations would not be justiciable in the ICJ.¹²⁸ The ICJ upheld this reservation as valid and then proceeded to hear the case anyway under rules of customary international law, the UN Charter, and rules arising from the UN.¹²⁹

In the arguments on the merits of the case, the US, Nicaragua, and the ICJ all relied upon sovereignty in their reasoning. The US claimed a right of collective self-defense to protect the sovereignty of Honduras and El Salvador from Nicaraguan-supported incursions. Nicaragua claimed a violation of its sovereignty by the US, and the ICJ, agreeing with Nicaragua, relied, among other things, upon the principle of non-intervention found in the UN Charter (Article 2).¹³⁰ At the same time, however, simultaneous sovereignty claims led to vastly different conclusions not only on the merits but also with regard to questions of justiciability and jurisdiction. This outcome recapitulates Tushnet's argument against domestic liberal jurisprudence as an ad hoc and indeterminate approach to legal reasoning. But it also reveals the way legal procedure can be used to justify violence when it is convenient.

In the case of the bombing of Serbia, the US and its allies relied on a theory of community rather than autonomy. They denied Serbian sovereignty and relied upon principles of humanitarian intervention. The principles of sovereignty and humanitarian intervention, or any other transcendent moral argument used to justify intervention, cannot be simultaneously applied as *abstract legal principles*. They cancel each other out. Liberal states use the indeterminacy of law to their own advantage and cannot be distinguished from their illiberal neighbors on the basis of law. Indeterminacy has a way of justifying coercion again and again.

The limits of CLS analysis

As was the case with communitarianism, the critical legal synthesis of legal realism, postmodernism, and critical theories does not stand alone. This is true for three reasons. First, while the CLS movement has been somewhat influential in the UK and France, it is largely an American phenomenon, one that exists in dialectical tension with the pervasive rights-oriented discourse specific to the US law and politics. Because of this, it can appear to non-Americans as an odd or even outrageous approach to engaging in political reform.¹³¹ Second, some CLS thinkers, including those I mention in my discussion above, view their approach as a left-leaning corrective to liberalism rather than as an independent political theory. Unger has used the term "superliberal" to describe his own normative theory. Tushnet's indeterminacy argument is designed to reveal the political nature of the law and the

need to place courts' actions squarely within the realm of politics to overcome "liberals' fear of voting," i.e. their fear of the political process.¹³² Koskenniemi's theory is quite devastating to liberal jurisprudence, but it is not clear how his prescriptive positions would be inconsistent with liberalism more broadly construed. His hope is to repeat this process at the international level, to unmask the political nature of law in order not to destroy it, but rather to "widen its horizons" as a political project.¹³³

Finally, while CLS theorists argue that there must be a preservation of humanism and morality in politics, some of them have much more difficulty accounting for such qualities theoretically. In many instances, this is the result of a synthesis of a much more radical postmodern epistemology connected to an equally radical ontology. As John McCormick has observed, many of the critiques of liberal law made by those on the left were made much earlier by figures at the other end of the political spectrum.¹³⁴ Marx was, of course, also concerned about this issue, one of the reasons he was dubious about moving beyond class as the basis of solidarity. Yet the deconstruction of identity that is an inherent part of the postmodern Nietzschean project has led to a breakdown in the emancipatory potential of this branch of critical theory. The fact that a synthesis of Nietzsche and Marx does not necessarily lead in this direction is clear. However, in more postmodern variants of CLS, the Nietzschean element, rooted as it is in an eschewal of meta-narratives and moral absolutes of any kind, does play this role. Knowledge is socially constructed and arbitrary; there is no objective reality of which thought is a reflection. Identity, therefore, must be just as arbitrary. No one facet of identity can serve as an intelligible essence describing the whole. To state otherwise is to commit the error of essentialism. If that is the case, then there are literally an infinite number of identities possible for any one person, giving rise to what might be termed as the "multiplicity of consciousness" or "carnivalization" component of postmodern ontology. Consciousness-raising has been an important part of postmodern empowerment movements, but it is becoming less and less clear which facet of consciousness ought to be raised. While the multiplicity component may be unproblematic for literary theory or poststructural linguistics, it presents a major problem for jurisprudence as a discipline that requires some stable notion of legal personality. Without a stable ontological essence, courts have no means of determining matters of standing, or the justiciability of cases, other than the arbitrary and coercive choice of one characteristic over another.¹³⁵

The evolution of CLS into an increasing number of subdisciplines – many of which are in conflict with each other – in law and other fields reveals the collision of ontologies and the need for stable legal personality. CLS has given way to analyses based on gender, race, sexual orientation, religion, and various combinations of these and other elements.¹³⁶ Critical race theorists broke from the CLS movement because the failure of CLS scholars to listen "to the lived experiences and histories of those oppressed by institutionalized racism limited CLS scholarship."¹³⁷ Richard Delgado has written fascinating,

critical accounts of the hegemony of white males over the progressive legal civil rights literature.¹³⁸ Similarly, feminist critical legal theorists have complained that the origins of CLS are white, male, and Ivy League, and that they focus on Marxian notions of class rather than on the special problems women face. Feminist scholars have also critiqued one another for reifying the ontology of women. Angela Harris critiques well-known feminist legal scholar Catharine MacKinnon by claiming, "MacKinnon rediscovers white womanhood and introduces it as a universal truth. In dominance theory, black women are white women, only more so."¹³⁹ Each of these evolving critical perspectives gives rise to a distinct conception of legal personality with specific rights based on those claims.¹⁴⁰

The process of ontological fragmentation is well under way in international relations theory as well. Nor has it been without its benefits. But deconstructing identity is much easier than reconstructing it. For example, Rebecca Grant has contributed greatly to the analysis of the gendering of concepts in international relations. But she faults critical international theorists for developing theories that still "draw upon political and philosophical texts that contain gender bias."¹⁴¹ The application of critical race theory to international theory goes beyond the normal critiques of cultural imperialism. Roxanne Lynn Doty relies on Derrida's claim that language is constructed by the privileging of one side of semiotic oppositions, such as North/South, developed/underdeveloped, and core/periphery. All these oppositions reveal the way that language is used to justify oppressive policy.¹⁴² What she does not mention, however, is that Derrida's concept of *différance* reveals how meaning is in constant flux, subject to infinite interpretability. Its arbitrariness is no less visible in analyses of colonialism or in discussion of words like "oppressive." Nor are we ever certain why we ought to consider terms she uses like "Philippines" or "Filipino" as being stable or ontologically absolute. Additionally, one could combine Grant's and Doty's critiques in ways that would undermine the integrity of both. Just as in domestic CLS theory, the components of identity are endless.

In international law, which already struggles with the issue of legal personality, these critiques render the attempt to develop a humanistic international ethic unintelligible. Minority critics of postmodern jurisprudence argue that the destruction of essentialism in law would, in fact, have undermined the ability of minorities to make real gains in the area of civil rights.¹⁴³ These gains relied upon an essentially stable definition of those who had been harmed by state policy.¹⁴⁴ One can imagine what a powerful tool the critique of essentialism might have been in the hands of white southern majorities during the civil rights era in the US. The same holds true for international law. Would it have been possible to deconstruct the ontological stability of terms like Tutsi, Bosnian, Kurd, Shiite, or Jew as a defense in trials dealing with genocide? Would the crime of genocide then make any legal sense? Rather than solving the problems of liberalism, CLS theory, in its evolving form, seems to exacerbate its atomism. There is no

convenient stopping point in the application of the social construction theory. What is needed at present is a way to reintegrate the ontological dimension of political discourse. Such discourse must address the full spectrum of means by which individuals can be oppressed, something liberalism has failed to do. At the same time, there must be some attempt to stabilize identity so that emancipatory discourse can realize its full potential as a meaningful part of the policy formulation process.

If the incompatibility of humanism and some aspects of postmodernity is not as clear as it ought to be, it is because of ethical commitments by more recent postmodern writers, commitments that their methodology does not account for and which Nietzsche would have disdained. The later turn, or return, of Derrida and Foucault to more humanistically oriented themes and their implicit acceptance of metaphysical presence remains an epistemic curiosity insofar as neither figure provides an adequate explanation for this transition. For this reason, Allan Megill, in his excellent (and sympathetic) exposition of postmodern aestheticism, states that "one would have to be a madman or a fool to believe literally in these aestheticist theses."¹⁴⁵ Megill cannot accept that we ought to take these thinkers at face value precisely because of their illiberal implications. Rather they ought to be seen as attempts to break us out of the stultifying torpor of bourgeois life with which Weber was so concerned. Ironically, however, it was precisely through Weber that Nietzsche was made tolerable to liberal consciousness. Nietzsche's thought has been tamed and made more amenable to those with democratic sympathies by postmodernists and late liberals alike; he is now rendered as a kind of Teutonic Mill. However, we cannot be certain that the pluralism of postmodernity will reinforce the pluralism of liberal theory. They are not one and the same.

Though he is sympathetic to CLS, Purvis recognizes the implications of this dilemma very clearly. To the degree that postmodern variants of CLS have absorbed the radical epistemological assumptions of modernity, it cannot escape the contradictions of modernism. "At the moment the New Stream [of CLS] adopts some affirmative vision of international life, it will have abandoned critical epistemology in favor of objectivism, thereby contradicting its own modern premises."¹⁴⁶ China Miéville makes a similar argument, noting that "the CLS theorists share the fundamental failure of the mainstream theorists with whom they break. For all their devastating and persuasive analysis of the failures and contradictions of liberalism and international law, they offer no theory of the legal form itself."¹⁴⁷ The inability of rules and applications ever to meet in the middle is potentially just as applicable to CLS theory as it is to liberalism, particularly when the ontological status of political actors is thrown into question.

The realist critique of liberal moral blindness

Realists are also acutely aware of the problem of coercion latent in liberalism. Many of these concerns have been covered already, and I will only

repeat a few of them here. Classical realists – Morgenthau, Carr and Niebuhr – have detected the tendency of liberal states to engage in violence beyond the extent justified by interests, on behalf of legal or moral principles. Morgenthau aptly quotes E. L. Thorndike on this point: “[I]njustice and the use of force by nations or by groups within a nations will not disappear until the governments of nations and groups become reasonable or are somehow *coerced* by a higher force into abiding by reason.”¹⁴⁸ This could be marked down as a slip of the tongue by a relatively minor figure in American intellectual history. Yet consider how broadly that declaration could be applied at present. *Lingua lapsa verum dicit*.

In *Moral Man and Immoral Society*, Niebuhr argues that there is a kind of moral blindness and hypocrisy among nations that appeal to universal principles to justify coercion. Liberal states in particular are susceptible to this temptation because universalism is at the heart of liberal rationality.

The coercive elements are covert, because dominant groups are able to avail themselves of the use of economic power, propaganda, the traditional processes of government, and other types of non-violent power. *By failing to recognise the real character of these forms of coercion, the moralist places an unjustified onus upon advancing groups which use violent methods to disturb a peace maintained by subtler types of coercion. Nor is he likely to understand the desire to break the peace, because he does not fully recognise the injustices which it hides.*¹⁴⁹

This critique is remarkably similar to that made by CLS theorists, who argue that there are subtle forms of coercion in liberal concepts of law and politics masked by appeals to procedure and a neutrality that does not exist.

Morgenthau attributes this tendency toward coercion to the fact that liberal thinkers view international relations as domestic politics writ large. Noting that domestic conflicts rarely challenge the overall liberal order, he states that there is “no such community of rational interests and values” at the international level.¹⁵⁰ This recognition leads directly to the realist belief that the interests of all parties must be accounted for in settling disputes. There is a higher kind of morality implicit in this belief, one that looks far into the future to anticipate how current perceptions may lead to future political consequences. Morgenthau’s position on US involvement in Vietnam illustrates this point. Morgenthau objected to US involvement in Vietnam as far back as 1961, pointing out the folly and contradictory nature of American policy. He wrote: “A government imposed on an unwilling or . . . indifferent people by a foreign power to defend the status quo against a national and social revolution is by dint of its very nature precluded from doing what Americans expect it to do.”¹⁵¹ It was the liberal Johnson Administration that carried out this aggressive policy with what Stanley Karnow refers to as “missionary zeal,”¹⁵² and which savagely attacked the reputation of Morgenthau.¹⁵³ It is ironic, given the militaristic and amoral reputation of

realism among liberals, that realists, in assuming the contestability of reason, have on many occasions taken a more pacific tone than liberals with regard to specific policy issues.

But the blindness goes beyond an *unwillingness* to see. Niebuhr comes closest to the heart of the problem when he speaks of the “hidden injustices” that lie within the structure of peaceful relations. It is no coincidence that the liberal model that laid the basis for the UN system itself emphasized justice arising from peace. Realists recognize that more often than not, the choice is either—or, not both—and. The acuity of Niebuhr’s analysis is not surprising since it evolved from a synthesis of theology (with its focus on depravity) and socialism (with its focus on the effects of class power on superstructure). As I discuss further in the next chapter, E. H. Carr’s own realism was heavily influenced by his own socialist background, which enabled him to see the fragmented nature of the liberal vision of peace based on the rule of law. Where liberals saw unity rooted in good intentions, Marxists were more closely attuned to the asymmetric power relations between classes and actors who would be ruled, for their own benefit, under the liberal international system.

Conclusion

Neither liberalism nor its critics can articulate an independent theory of international ethics. Communitarians lay bare many of the contradictions within the late liberal synthesis. They have shown how theories relying upon either of the two pillars of liberalism, interests and neutrally applied rules, encounter serious obstacles in their attempt to provide a viable understanding of political ethics. These problems are only magnified by the fact that liberal international discourse relies heavily on the synthesis of rules *and* interests found in international law. However, communitarianism is at best an ideal type. Communitarianism can provide insights into the excesses of liberalism and their ideological origins as well as how they can be addressed by policy-makers. In this sense, it is similar to democratic socialist theory insofar as it serves as a corrective to the liberal emphasis on procedural justice, neutral principles, and individual autonomy.

Critical legal theorists have been helpful in uncovering the contradictory ways in which sovereignty and the universalism of law interact within liberal jurisprudence. They have also revealed the subtle means by which law can mask assertions of power. As a reconstructive project, the results are more mixed. Some CLS theorists see their work as a corrective to liberalism. Beyond this, CLS theory faces significant limits due to the fissure that exists between its critical epistemology and its ethical aspirations. CLS theorists have trouble uniting their epistemology, their ontology, and their ethics, relying as they do upon a philosophical alliance between Nietzsche and humanism that is ultimately untenable. Ironically, this is also the case for realists who have also incorporated components of Nietzsche’s epistemology into their own theories. It is to this point that I now turn.

5 Realism, tragedy, and postmodernity

In the previous chapter, I described the striking similarity between realist and critical legal (CLS) critiques of liberalism's moral blindness. They share another characteristic as well: their epistemologies, which are crucial to their critiques, also undermine their ability to develop a philosophically viable synthesis of ethics and power. I also argued that there remains a sense of optimism among many CLS thinkers, one that I believe reflects either a lack of awareness or a lack of concern regarding the implications of their epistemological attachments. That is not the case among the realists I examine in this chapter. They are quite aware of the consequences of the epistemological changes that have occurred in the post-Enlightenment period. I focus specifically upon the relationship between Kantian epistemology and the ethical positions Nietzsche drew from it. Whereas liberalism covered over this relationship, realist theory self-consciously incorporated it. Though liberal policy can become coercive, realism finds itself unable to assert an ethical position that can transcend its own tragic vision. Where liberalism is morally blind, realism is rendered helpless.

In order to show why this is the case, I focus on the writings of four realists in particular: Max Weber, E. H. Carr, Henry Kissinger, and Hans J. Morgenthau. These four master thinkers remain unsurpassed – except perhaps by Reinhold Niebuhr – in their analysis of the philosophical foundations of realist theory. But, unlike Niebuhr, their vision of international ethics is not rooted in theology or a doctrine of the problem of sin and its corollary, the belief in the possibility of redemption.¹ While Hellenism and Christianity both share a belief in tragedy, the Christian conception entails a belief in progressive history that the Greek does not. These four also view humanity as being thrown into a life in which meaning is not found but rather must be created. Three of the four were German by birth and all were heavily influenced by the *Kulturpessimismus* of late nineteenth century German thought. None of these four is amoral in his approach to politics or ethics. On the contrary, each individual had a profound moral vision, particularly Morgenthau. Yet none of them could overcome the inherent limitations of their epistemic views, views which colored their political perspective on what an ethical foreign policy entailed.

Kant, Nietzsche and *Kulturpessimismus*

In *The Birth of Tragedy*, Nietzsche states that knowledge takes two forms, Apollonian and Dionysiac. The Apollonian consists of constructions of the human imagination, particularly those that are aesthetic, that help us forget the inevitable presence of death and tragedy. The tragic is associated with the Dionysiac, which is related to the miasmatic, the chthonic realm of nature, and a loss of individuality within the whole of being. Where the Apollonian involves rational perception, the Dionysiac is wildly irrational. While the Dionysiac is directly known, the Apollonian is, like the knowledge of phenomena in Kant's theory, indirect and known only at a distance. The constructed quality of the Apollonian is covered over, hidden from human awareness, in order for it to be effective in helping us forget our shared tragic fate. Nietzsche writes:

The Greek knew and felt the terrors and horrors of existence: in order to be able to live at all, he had to use the brilliant Olympians, born of dream, as a screen. That great mistrust of the Titanic powers of nature, those ruthless Moira ruling over all knowledge . . . was continually overcome anew, in any case veiled and removed from view by the Greeks through that artistic *middle world* of the Olympians. In order to be able to live, the Greeks were obliged to create these gods, out of the deepest necessity.²

Just as the Greeks constructed their gods, so have modern men (and only men) constructed poor imitations, in Nietzsche's view. The rationalism of Socrates, he asserts, devolved into the myth of rationality itself, which separates us from a knowledge of the tragic basis of life. Those who can overcome this rationalism, who recognize that God – in the form of transcendent meaning – is dead, and construct new worlds for themselves, are the heroic figures of the modern period. But to accomplish this, they must rewrite a table of values from the ground up; they cannot be held to normal codes of conduct. Neither they nor their actions can be judged by any conventional standards, for it is just these standards that are suspect. If their creations are powerful, they may become the basis for new codes, new laws, even new civilizations.

Three qualities of Nietzsche's thought are of particular importance for the works of the four realists examined in this chapter. First, there is a strong suspicion or outright hostility to rationalism or systems of knowledge, especially of the Enlightenment variety. Rational systems are socially constructed, a product of will, and serve the ends of particular groups, nations, or classes. Rationalistic ethics do the same, masking the implicit coercion buried in the language of reason. Knowledge of things-in-themselves is difficult if not impossible. Second, these thinkers are skeptical about the possibility of progress in history. For progress to exist, there would need to be

meaning inherent in its unfolding. But history must be given meaning; it does not contain it. This is the tragic existential element of human life. As Bloom noted, Nietzsche saw this as a catastrophe but one that could be overcome by a few, very few, brave souls. Modern liberals see this “catastrophe” as a liberation from the constraints of tradition and custom. Like Nietzsche, realists find the liberal position to be fatuous, a denial of humanity’s fundamental existential position. They would agree with Freud that each individual is engaged in a perennial internal struggle between *eros* and *thanatos*, the forces of life and death. And like Freud, they are skeptical about the outcome of that struggle.³ There is no cure for humanity’s condition. All that is available is adjustment to the realities of that condition in order to mitigate its pernicious effects. Finally, those who find themselves in the post-Nietzschean period are confronted with a tragic choice. One can choose to act within normal ethical standards or one can be involved in world-creation; one cannot do both. Creative politics requires a “diabolical contract” to secure the interests of one’s constituents. While ordinary citizens can afford to turn the other cheek, the responsible politician cannot.

One might note the similarity of these points to those made by postmodernists. That relationship is not accidental, due to the reliance of both realists and postmodernists on the radical epistemic claims of Kant as transmitted through Nietzsche. Realists denounce rationalism and scientism; postmodernists eschew metanarratives. Realists assert that progress is illusory; postmodernists, having begun with the relativity of history as historicism, have concluded that history is an infinitely interpretable concept in which no transcendent position, and no concept of progress, is possible.

There are also differences, however. Many postmodernists have gone so far in pursuing the logic of their epistemic assumptions that they seem to have lost touch with the belief in the knowledge of phenomena altogether.⁴ The realists I discuss here have not gone this far. They clearly adhere to a belief in the objectivity of some knowledge. Kissinger’s reliance upon the principles of geopolitics, and Morgenthau’s assertions concerning both the objectivity of human nature and the autonomy of politics, come to mind. Even for these theorists, however, it is not clear how objective principles are integrated into philosophies with radically skeptical underpinnings.

Part of the answer to this intellectual dilemma may be found in the cultural and intellectual milieu of Germany in the late nineteenth and early twentieth centuries. As the power of romanticism and German idealism (both having their origins in different aspects of Kant’s philosophy) began to diminish, a sense of pessimism seemed to overcome German intellectuals. This is strange in hindsight, given the rise of German political power during this time. Indeed, it is not possible to speak of German power *per se* until this period which includes German unification in 1870. But the ideal of cultural autonomy, and the superiority of culture over politics, is not just chronologically coincidental with the rise of German power. The first is, in many ways, a function of the second.

Kultur and Zivilisation

The division between *Kultur* and *Zivilisation* is crucial to understanding the role of culture in German thought. The English words “culture” and “civilization” do not communicate the meaning these words would have held for Germans in the late nineteenth century. In the minds of many Germans, the Enlightenment was largely a product of French and British intellectuals. From the beginning, Germans were cautious about accepting the premises of Enlightenment thought, a feeling that only grew more powerful as the new rationality became more and more associated with materialism, utilitarianism, and industrialism. All of these qualities, and the decadence associated with them, were tied to the West, to *Zivilisation*. Kant’s method of preserving a place for freedom in the midst of the natural world of cause and effect was subtle. He accepted the fact that the physical laws controlled the phenomenal world, the world of nature; however, he retained a place for the spirit (*Geist*) and human freedom in the noumenal realm of the will. This divide was to have profound consequences for later German thinkers. Rational devils, working within the phenomenal realm of calculation and consequential thinking, might be able to construct a good society out of necessity; it did not make them any less diabolical, a point not missed by later theorists. *Kultur* was the means through which pure freedom and pure morality were expressed, and the autonomous realm of the aesthetic provided a place for their expression. From the very beginning of the nineteenth century, *Kultur* was synonymous with freedom while *Zivilisation* became synonymous with control and enslavement, first to nature and then to rational systems of human control. The obsession with power, the militarism of unification under Bismarck, and the loss of the organic unity of German *Kultur* (as opposed to the new unity of the state) were abhorrent to many observers of late nineteenth century events.

German intellectuals of the nineteenth century watched as the influence of *Zivilisation* permeated German society. Their reactions took two forms. German nationalists made much of the *Kultur–Zivilisation* divide and attempted to provide solutions to the invasion of Germany by the West. They saw the process as one that might be reversed by esteeming the uniqueness of German life. German academics, however, were less sanguine about the reversibility of the encroachments of modernity. As David L. Gross notes, they believed that modernity, which they equated with Americanization, had left them no choice but to “withdraw into a sphere of elite ‘high culture,’ to defend their own conception of the ‘spiritual personality’ in a mass age.”⁵ The retreat into culture was to have terrible consequences for German politics. Politics was seen as part of the “disenchantment of the world,” as Weber put it, a necessary evil. Most of the day-to-day work of running the state was done by bureaucrats, rational and soulless – the two were becoming identical – who participated in the imprisoning process of modernity.

There was another sense in which pessimism prevailed in German thought, one that has profound implications for realist thought. Though Kant may have seen the noumenal freedom of will as a liberation, later theorists saw the implications of this concept in less benign terms. For it was not at all clear why or how the mind could organize data, as Kant believed it did, in ways that reflected objective conditions. Over the span of the century, this belief came to seem more and more absurd, a point reflected by Nietzsche's statement that there are no facts, only interpretations. Knowledge then was constructed out of a meaningless stream of perceptions, and its unity as a representation of reality could in no way be assured. The problem of explaining intersubjectivity, how knowledge could be shared, became a serious question with which epistemologists had to grapple. It remains one of the central questions of postmodernity.

The sense of decay and gloom hanging over the heads of German intellectuals remained powerful through World War I and in many ways was reinforced by its outcome. After this defeat, some Germans realized they had to come to terms with politics, however distasteful it might be to do so. Therein lie the roots of the tragic perception of realist political theorists. Though the moral chasm separating *Kultur* and *Zivilisation* had to be spanned, the nature of the chasm itself was never questioned. Nowhere is this fact better illustrated than in the thought of Max Weber.

Weber: politics as a necessary evil

Weber's thought clearly reveals the influence of Nietzsche's work. His solutions to questions of ethics, epistemology, and politics all rely heavily upon Nietzschean premises, though their aristocratic qualities are often tamed to make these applications more amenable to democratic society. To see how this is so, I examine how each of the three points of Nietzschean thought mentioned above were incorporated by Weber, a pattern I will follow with each of the other theorists as well.

Weber on the construction of reason

Weber's beliefs about international relations arise out of his Kantian and Nietzschean assumptions about the nature of knowledge. The "stream of events," the data of history, is devoid of inherent meaning.⁶ Meaning must be ascribed by human intentionality. Data must be organized through the ideal type or categorical concept that can make sense of empirical information.⁷ Ideal types are "utopias," nowhere to be found in reality. Through the ideal type, "the adequacy of our imagination, oriented and disciplined by reality, is *judged*."⁸ Once again, the imagination is the keystone of knowledge which is, by necessity, ultimately a human construction.

Weber has in mind here the construction of descriptive typologies for the purpose of doing empirical science; however, values are no less subject to

imaginative creation. In Weber's thought, we find a distinction between value and instrumental forms of rationality (*Wertrationalität* and *Zweckrationalität*). Values are not subject to rational critique in and of themselves; they can only be described. All values have their own internal rationality to those who hold them, but there is no neutral stance by which they may be judged. This would require the imposition of the noumenal realm into that of the phenomenal. Imagination cannot bear the weight of such a burden and, thus, the journey across the divide is impossible. Nor can the phenomenal give insight into meaning. Science is helpless to justify values; it can only explain them phenomenologically. One might recall Weber's statement that since Nietzsche, no one believes science can provide answers to meaning in life. "Life with its irrationality and its store of possible meanings is inexhaustible."⁹

What are the implications of this position for politics and for political ethics? Weber explains them in detail in "Politics as a vocation." Politicians need three qualities: "passion, a feeling of responsibility, and a sense of proportion."¹⁰ By passion, he means "devotion to a 'cause,' to the god or demon who is its overlord."¹¹ As this language suggests, the commitment is more important than the cause itself. Nor can judgment be made of which god or demon is chosen. Gods and demons arise out of the realm of the charismatic rather than the more prosaic traditional or bureaucratic-rational realms.

Weber on progress

The second point which unites realists with Nietzsche is the lack of belief in positive secular change. Weber shares Nietzsche's perspective that modernity, the conquest of rationalism, is devolutionary and imprisoning. Characterizing the direction of history toward bureaucratic-rationalism as the "iron cage," Weber agrees with Nietzsche that the Socratic emphasis on scientific or representational rationalism, the idea that the good is rational rather than aesthetic, has brought disenchantment to modern life.¹² Modern civilized life is the life of technical mastery, a form of progress, that ironically entails the loss of meaning itself. Death is meaningless because it takes place within the context of the march of scientific progress. "And because death is meaningless, civilized life as such is meaningless; by its very 'progressiveness' it gives death the imprint of meaninglessness."¹³

The view that progress is an illusion is consistent with Weber's belief that order must be given to random chaotic facts, a point made earlier. In the realm of politics, we see a cycle of events that is unceasing, a form of eternal recurrence, Hellenic in quality. Charismatic figures give meaning or horizons to societies. They create culture by their own force of will. Over time, charisma is replaced by traditions that institutionalize and reify the forms of organization created by the charismatic figure. In modern European society, the process of rationalization begun by Calvinists overcame traditions and developed into bureaucratic-rationality.

This pattern explains much of Weber's attraction to "plebiscitary democracy," in which normal democratic decision-making is supplemented and even guided by a national leader.¹⁴ This leader, brought to power by his charismatic appeal, directs the nation and is subject only to the will of the people on the basis of plebiscites. Weber hoped that the inclusion of charismatic domination in German politics might forestall the stultifying effects of bureaucratic-rationality. He incorporated this element of his political thought into the Weimar Constitution by creating a powerful and independent presidency elected by plebiscite. In addition, Article 48 of the Constitution reinforced the power of this figure. This article granted the President emergency powers in times of crisis, in other words, during times when bureaucratic-rationality failed and decisions from the wellspring of charismatic creativity were needed. During the Weimar period, when parliamentary government was weak and struggling, Article 48 was used frequently to bypass the very laborious and ignoble activity of liberal democratic politics.¹⁵ We cannot be certain what Weber would have made of this, as he died in 1920.¹⁶ But we also cannot be certain how, given Weber's view of charisma and values as a war between gods, we may discern between gods and demons when they appear to us in human form.

International politics is no less subject to these questions. In "Science as a vocation," Weber uses the metaphor of warring gods to describe the conflict between cultures and nations.¹⁷ Without a world-state, no political entity has a monopoly on legitimate violence. Nations seek their destinies in the international sphere without any absolute or transcendental guidance. The conflict between nations will never lead to an ultimate harmony; struggle is inherent in international life.

You can change the means, the circumstances, even the basic course and those who are responsible for it, but you cannot put the struggle itself aside. . . . "Peace" means the displacement of the form of struggle or of the enemy in battle, or of the circumstances of battle, or finally the chance of selection, and nothing else.¹⁸

This important point distinguishes Weber from both the Marxist and liberal traditions. For Marxists and liberals, conflict is systemic in origin and can be mitigated and eventually removed altogether from the international sphere. For Weber, Freud, and most classical realists, the desire to dominate is an inherent part of human life that will never be removed. This is why systemic, secular progress is illusory. No social restructuring can alter the presence of the will to power in human life. If history is the story of man's inhumanity to man, there can be no end or final utopian stage in that historical process. Evil cannot be stamped out; it can only be mitigated by the honest evaluation of circumstances, resources, and the will to employ those resources responsibly.

Weber on ethical dualism

Like Machiavelli and Nietzsche, Weber believes that ordinary standards cannot apply to those with the creative power to provide new tables of morality that give meaning to life. Given that politicians must follow these gods or demons, in what manner ought they to do so? Weber believes passion must be tempered by proportion or a sense of "distance."¹⁹

Weber points to the *dharmā* or duty of the Hindu warrior caste, communicated in the *Bhagavad-Gita*, as an exemplary synthesis of passion with proportion. The ethic found in the *Gita* is distinct from that found in the Sermon on the Mount. Weber notes that while Hindu ethics allowed for the integration of war and caste morality, Christianity did not.²⁰ As Germany was ostensibly a Christian nation, this distinction did not bode well for an integration of politics and morality, a point also noted by Bismarck.²¹ Christianity requires love, compassion, and charity. While these are virtuous qualities for the individual to possess, they are deadly for political leaders, who must have a sense of distance from the fate of any individual. Leaders must have a certain perspective that allows them to stand above the fray.

Weber's ideal politician will also recognize the distinction between two kinds of ethics, that of "responsibility" and that of "ultimate ends." Ultimate ends are the absolutes found in the Sermon on the Mount. These are the prescriptions of love, of forgiveness, of peace and charity. The ethic of responsibility, on the other hand, requires one to take responsibility for one's actions, knowing all the while that circumstances beyond one's own control may alter the outcome and have unintended consequences. The responsibilities of politics require politicians to go beyond the ethics of ultimate ends in order to secure the survival of those they lead. In the modern age of bureaucratic disenchantment, when premodern ideals such as *dharmā* are of no help, one must recognize that the chasm that exists between these two realms is unbridgeable. The politician cannot be good *and* successful.

Also the early Christians knew full well the world is governed by demons and that he who lets himself in for politics, that is, for power and force as means, contracts with diabolical powers and for his action it is *not* true that good can follow only from good and evil only from evil, but that often the opposite is true. Anyone who fails to see this is, indeed, a political infant.²²

The exercise of power is always a contract with the devil to achieve good ends, an alignment of forces that may necessitate the reliance upon evil means. At some level, politics is always fundamentally immoral by ultimate standards. The ideal politician understands this and can take responsibility for engaging in evil to secure the greater good.

Weber's solution to the tragic character of human existence was, in essence, an appeal to the irrational through the charismatic. This solution

finds its origins in the cultural despair of the German intellectual milieu common to both Nietzsche and Weber. And despite Weber's pains to distinguish himself from what he saw as Nietzsche's nihilism and attraction to cruelty, he cannot overcome the relativism of Nietzsche's thought. Weber wants to have it both ways. Like Kant, he seems certain that the good secured by the charismatic ethic of responsibility is the good of bourgeois German liberal politics. But he cannot show where or how Nietzsche's epistemology and Kant's ethics meet. As we will see, this is a characteristic he shares with other realists.

E. H. Carr: *Kulturpessimismus* and appeasement

Carr on the construction of reason

The social constructionist aspects of E. H. Carr's thought are visible from the very beginning of his work *The Twenty Years' Crisis*. In the preface to the first edition, he acknowledges the influence of two books. One is Niebuhr's *Moral Man and Immoral Society*. The other is Karl Mannheim's *Ideology and Utopia*, which provides the epistemic underpinnings for his own work. Though Carr was English, Mannheim serves as his link to the characteristics of German thought I have discussed above. Carr's solution to the interwar instability of international politics takes the form of appeasement and moral equivalency. The moral qualities of German claims cannot be judged because there is no unitary moral standard. Niebuhr's suspicion of group morality in *Moral Man* reflects this position to some degree; yet Niebuhr never asserted that there was no justice, only that its attainment was difficult and to be carefully considered. Carr derives his substantive pessimism about moral claims not from Niebuhr but from Mannheim. In fact, Carr goes beyond Mannheim in questioning moral discourse; as is often the case, the disciple zealously exceeds the master.

Mannheim emigrated to Germany from his native Hungary, where he had been under the tutelage of George Lukács. He eventually came to Heidelberg where he studied under Alfred Weber, the brother of Max Weber. Max Weber died in 1920, not long after Mannheim came to Germany. But Mannheim was exposed to, and animated by, Weber's works all his life. Mannheim believed that there was a tragic element to modernity. That tragedy was a result of the dissolution of the organic unity of traditional culture. Like Nietzsche, he believed that in the modern period, there could no longer be a unitary rational perspective that in the past had been provided by that culture. In fact, he states that his approach is influenced by Nietzsche's theory of *ressentiment* as the source of moral judgments.²³ Nor could empiricism be of any assistance.²⁴ Naturally, empirical judgments would be organized by different parties in different ways, a notion that serves as the basis of the sociology of knowledge. There were many rationalities that were dependent on class. Those in power relied upon what

Mannheim called “ideology.” Ideology was constructed in order to legitimize the institutions and rules that supported the status quo. Those seeking to overturn the status quo relied upon “utopia.” Utopian perspectives were also constructed to achieve certain ends but they tended “to burst the bonds of the existing order.”²⁵

Though Carr had certain Marxian affinities, his own theory adopted Mannheim’s epistemology completely. His critique of liberal policy in *The Twenty Years’ Crisis* replaces Mannheim’s term “ideology” with “utopia.” He then proceeds to contrast the coercive quality of utopia with the cynicism and amorality of realism, which for him is a form of *Realpolitik*.

The antithesis of utopia and reality – a balance always swinging towards and away from equilibrium and never completely attaining it – is a fundamental antithesis revealing itself in many forms of thought. The two methods of approach – the inclination to ignore what was and what is in contemplation of what should be, and the inclination to deduce what should be from what was and what is – determine opposite attitudes towards every political problem.²⁶

Whereas the utopian liberal attempts to impose coercive and unrealistic policies, the realist cannot transcend his entrapment in the determinism of political and military circumstances.

Carr’s dichotomy arises out of his acceptance of the Weberian distinction between facts (nature) and values. He relies heavily on Mannheim’s social constructivist theory to make sense of the unity of ethics and politics. Citing Kant, Carr maintains that facts without purpose are irrelevant; purpose must be given to them in order to bring organization and understanding. Otherwise we remain in the purely phenomenal realm of natural science.²⁷ Politics, in particular, requires the application of purpose to facts that have no intrinsic value. Given the relativity of historicism, one wonders how we may be sure that these purposes are benign and amenable to democracy or peace. Carr also assumes the reasonableness of political actors who will positively respond to international political developments that take their own interests into account. But there is no reason why rational assumptions like these must be a part of the organizing purpose given to the chaos of phenomena.

Carr on progress

At the end of *The Twenty Years’ Crisis*, Carr explains his theory of peaceful change. It rests upon a peaceful mechanism that can replace violence as the primary means of altering international conditions. Change involves a carefully constructed compromise between power and morality. About the former, Carr is quite explicit. At both the domestic and international levels, the terms of bargaining between contending parties rest largely upon the ability to back up one’s position with force. Without power, political reality

dictates that the weaker must yield. "Yielding to threats of force is a normal part of the process of peaceful change."²⁸

Given this situation, it is preferable that change should come about without violence. Parties must accept the realities of power and alter their policy accordingly.

If we consider peaceful change merely as a more or less mechanical device, replacing the alternative device of war, for readjusting the distribution of territory and of other desirable things to changes in the equilibrium of political forces, it performs a function whose utility it would be hypocritical to deny. Many changes made in national communities whether by legislation or otherwise, and recognised as salutary, have no other basis than this.²⁹

Some of these changes have indeed been salutary. Carr mentions the rise of trade union power as a domestic example of the relationship between positive change and political power. But what of the role of morality? How do we distinguish between salutary change and change that is to be resisted on moral grounds? Having spent a good deal of his book criticizing the liberal belief in the harmony of interests, Carr relies upon a kind of harmony principle to ground his moral theory. Two examples are provided: the desire for Irish home rule and the German situation in the interwar period.

In the Irish example, Carr makes the point that change came about as a result of a confluence between morality and power. The moral element is seen in the "stock of common feeling between Great Britain and Ireland."³⁰ There was enough agreement on what was "just and reasonable" between parties to bring about an acceptable solution. The fortuitous change in conditions of power occurred, says Carr, because the British were militarily engaged elsewhere.

The German scenario is more troubling insofar as, unlike the Irish case, it ended in failure. Carr believes there was enough agreement between Germans and Britons on the pernicious effects of the Versailles Treaty. But Germany could not back up its concerns with power for fifteen years. By that time, Germany had already become cynical and aggressive.³¹ Peace was, under these circumstances, nearly impossible. Other than giving us these examples of morality in politics, Carr says little else about moral criteria. That may be because establishing "methods of peaceful change is therefore the fundamental problem of international morality and of international politics."³² If a conflict between justice and peace occurs, the latter must trump the former. If this moral goal is primary, then other criteria for morally acceptable compromise can be set aside.

There is an additional reason why moral criteria may be secondary. Carr's epistemology is very much in accord with that of postmodern historicism. Like Mannheim, he believes the process of unmasking ideology is endless. There is no final act of unmasking, no Hegelian (or liberal) end of history

which provides the overarching perspective on objective history. This element of his thought is most clearly seen in his work *What is History?* Decrying Whiggish, Marxist, liberal, and other teleological perspectives, Carr asserts that every age constructs the meaning of history and of progress anew for itself. Carr's view of progress is complex and is somewhat akin to the perspective of Thomas Kuhn. He believes there has been progress, particularly in areas of technical expertise and science. He also believes humanistic inquiry has progressed; one can learn lessons from history.³³

Carr remains unaware of the incommensurability of these positions throughout the book. How can one contend that meaning is socially constructed anew in every age and yet find some principle of progress, if by progress we mean a transcendent perspective that provides meaningfulness to the concatenation of facts and events of human activity? For to say meaning is objective "to me" is to say very little at all about history per se. There is no absolute content to progress. "But if the historian is to save his hypothesis of progress, I think he must be prepared to treat it as a process into which the demands and conditions of successive periods will put their own specific content."³⁴ His thesis goes beyond the recognition of historiographical variation into historicist relativity. "[O]bjectivity in history does not and cannot rest on some fixed and immovable standard of judgment here and now, but only on a standard which is laid up in the future and is evolved as the course of history advances."³⁵ How that standard appears in history, or what its relationship is to notions of ethical responsibility, cannot be decided apart from the circumstances of history.

Carr's doubts about moral certainty rendered questions beyond the achievement of peace – at whatever price – irrelevant. One could point to the examples given earlier to illustrate Carr's theory of peaceful change. Carr refers to the new power of trade unions who can redefine domestic politics by the application of that power. But one could just as easily inquire about the respective power relationships between the German state and Jews in Germany during the time Carr was writing his book. It is difficult to imagine what common interests or moral perspectives Jews would have had with Nazis. Carr certainly would have responded that he was in no way justifying peaceful change that would allow for the destruction of a people. One can argue, however, that this was the effect of appeasement at Munich. Carr implicitly noted this when he removed from the second edition of *The Twenty Years' Crisis* offensive passages suggesting the dismemberment of Czechoslovakia was an example of his "mechanism of change."

Carr's uncertainty about the commonality of the human experience, and the tentative quality of his ethical assumptions, lead him to regrettable conclusions. He makes it clear that, in the absence of power, the submission of the weak to the strong is not only an empirically tragic fact, it is a normative good that prevents violence. Though it may be in the interests of the strong to make concessions as well, they have a much better bargaining

position. When emphasizing peace over justice, strength becomes a great virtue and weakness a terrible vice. As the Jews and the West learned during the Nazi period, appeasement may lead to more appeasement and to more violence. Carr assumes a rationality not present in some policy-makers, an assumption of common purpose he decries when it is posited by liberals.

Carr on ethical dualism

As is the case with other realists, Carr's philosophy leads to a dualistic international ethic with one standard for statesmen and another for everyone else. Locating the source of rule in *both* power and morality, Carr states: "Political action must be based on a co-ordination of morality and power."³⁶ Yet, in his critique of realism, he suggests that "Politics are made up of two elements – utopia and reality – belonging to two different planes *which can never meet*."³⁷ At this point, the influence of Niebuhr on Carr becomes quite apparent. Carr believes there to be a distinction between the morality of the individual and that of the group.

The group is not only exempt from some of the moral obligations of the individual, but is definitely associated with pugnacity and self-assertion, which become positive virtues of the group person. . . . Acts which would be immoral in the individual may become virtue when performed on behalf of the group person.³⁸

Niebuhr, however, appeals to a principle of transcendence which places limits on the kinds of policies a nation or group may claim to be justified. He draws freely upon religious and moral resources that are free from the corrosive effects of historicism. Even Mannheim, late in his life, came to see Christianity as a useful means of building consensus in post-war Britain for progressive social reform.³⁹

Carr does not make use of these resources in any systematic way. Entering into politics means acknowledging the fact that we must engage in "uneasy compromises."⁴⁰ These compromises must be enacted by those who understand that "the ideal can never be institutionalised, nor the institution idealised."⁴¹ The intuitive response to the need for both the ideal and real, along with the final incommensurability of both, requires something akin to Weber's ethic of responsibility. Though Carr denies the politically good is always the morally bad, or that politics necessitates a contract with the diabolical, his statesman must be able to see circumstances for what they are and overcome them through uncommon means. If the real and the ideal require moral thought to occur within the boundaries they create, if they are "planes that never meet," then policy-makers can have no guidance from "normal science," to use Kuhn's terms. Their decisions must be extra-paradigmatic, a demand requiring not reason but imagination and intuitive insight. An unresolved issue in Carr's work is how easily the ordinary con-

stituent, who seems to play an important role in moral philosophizing for Carr, can follow a political leader into this realm.

Kissinger: *Kulturpessimismus* as praxis

Associating Henry Kissinger with postmodernity might seem odd at first glance. Postmodern scholarship is often abstract and inaccessible to the more pragmatically minded. Kissinger, both as an Assistant to President Nixon for National Security and as Secretary of State under Nixon and Gerald Ford, had many practical diplomatic problems to solve. But Kissinger began his career in international relations as a student at Harvard, and his work there gravitated to theoretical and philosophical issues in world politics. Kissinger was consumed by history and the lessons it held for the astute observer. His senior thesis is, in fact, a philosophy of history, focusing on Spengler, Toynbee, and Kant. Like the other realists examined in this chapter, Kissinger was highly influenced by German philosophy and by the epistemic implications of Kant in particular. Those implications – the uncertainty and limitations of knowledge, the radically autonomous quality of human freedom, and the ideal of imaginative creation as the means of expression in the world – affected not just his theory about politics but also his statecraft.

Social constructivism

Kissinger's social constructivism is seen from the very beginning of his thought in his response to Spengler, Toynbee, and Kant as philosophers of history. He shares the pessimism of Weber concerning the rise of technical expertise of bureaucrats, of whom he later had a great deal of experience. Kissinger's almost Nietzschean disdain for mass society, socialism, and positivist philosophy all arise from their connection to the increasing bureaucratization of human existence. This disdain is itself a result of his own Kantian assumption that nature represents the determined and the un-free, whereas history represents the open vistas of human action in which freedom is vitally expressed by those who have the power to do so.

In his senior thesis, Kissinger finds Spengler and Toynbee unsatisfying as philosophers, but for opposite reasons. Though he accepts Spengler's pessimism about the encroachments of utility and materialism, he feels that Spengler is unable to transcend the limitations of the phenomenal world. Spengler's vision is too closely connected to the empirical and the ephemeral; it is too determined, leaving no room for human freedom and purpose in history. In contrast, Toynbee's view is too optimistic. Toynbee sees purpose in history, a higher, transcendent meaning to life that is a result of his theology. Like Mannheim, Kissinger rejects any notion of an inherent meaning to history; meaning is given to history by those who exercise their freedom within it.⁴² The great challenge is to recognize this tragic quality of life and to overcome the circumstances history places before one.

In his doctoral dissertation on diplomacy at the Congress of Vienna, Kissinger incorporates this belief into his assessment of Klemens von Metternich, the Austrian diplomat. Metternich had the unenviable job of representing a fragile and divided Austrian Empire. Though he was skillful as a diplomat, Metternich is faulted by Kissinger for not overcoming the tragic circumstances with which he was faced. His view of the Austrian diplomat is strikingly similar to Weber's view of Bismarck. Weber believed the German statesman had kept Germany in its political infancy by his heavy-handed approach to statecraft. Kissinger saw this same quality in Metternich.

But Metternich's diplomatic skill enabled Austria to avoid the hard choice between domestic reform and revolutionary struggle; to survive with an essentially unaltered domestic structure in a century of rationalized administration; to continue a multinational empire in a period of nationalism.⁴³

In both cases, what Kissinger calls "manipulation and not creation" left problems unsolved, problems which would lead to ruin for both countries during World War I. This passage states so much more about Kissinger than it does about Metternich that I shall quote it at length.

Only a shallow historicism would maintain that successful policies are always possible. There existed no easy solution for Austria's tragic dilemma; that it could adapt itself by giving up its soul or that it could defend its values and in the process bring about their petrification. Any real criticism of Metternich must therefore attack, not his ultimate failure, but his reaction to it... Lacking in Metternich is the attribute which has enabled the spirit to transcend an impasse at so many crises of history: the ability to contemplate an abyss, not with the detachment of a scientist, but as a challenge to overcome – or to perish in the process... For men become myths, not by what they know, nor even by what they achieve, but by the tasks they set for themselves.⁴⁴

History is the background of great men who create the world of the future without transcendental guidance. Purpose must be given to history by these "men"; to do otherwise is not to control but to be controlled by history, an unacceptable fate in Kissinger's mind. This is why Kant's views were so attractive to him. As Peter Dickson aptly puts it, Kissinger "identified and sympathized with the philosopher's attempt to limit the claims of science to 'make room for faith.'"⁴⁵ For Kissinger, however, this faith was not a faith in God but a faith in his own creative abilities to overcome obstacles, something he had been doing all his life.

Kissinger on progress

Kissinger's analysis of Kant focuses on the issue of determinism in Kant's theory of history. While he accepts Kant's epistemology, Kissinger is troubled by the implications of Kant's eschatology found in his "Perpetual peace". In fact, he sees Kant's ethics and epistemology as utterly contradictory. He finds Kant's notion that history is a part of the phenomenal realm, and therefore subject to the determinism of nature, abhorrent.

My reading of Kant is much the same as Kissinger's, insofar as Kant's eschatology is bound up with his ethics. That the two are inextricably tied together was the primary point of Carl Friedrich's post-war book on Kant, *Inevitable Peace*. Friedrich, one of Kissinger's mentors at Harvard, believed that Kant's works could provide a basis for intellectual and political reconstruction. In *Inevitable Peace*, Friedrich argues that Kant's moral philosophy is found within his vision of a future world made up of republican states that guarantee the basic dignity of persons regardless of their particular characteristics.⁴⁶ This book was Kissinger's introduction to Kantian thought, but he quickly moved beyond it. His senior thesis ultimately rejects his mentor's position because he cannot reconcile the absolute freedom of Kant's noumenal self with the inevitability of progress in history. At some level, it is possible that Friedrich's incorporation of socialism into Kant's theory may have been more repugnant to Kissinger than Kant himself, since nothing could prove less noumenal and more phenomenal than the capitalist-socialist synthesis Friedrich envisioned. But beyond this, Kissinger, who lost thirteen family members in the Holocaust, could not reconcile the immediate past with a beneficent understanding of history. Evil cannot be contained by a reliance on the movement of history towards a liberal end. The dignity of human beings must be secured by those who create the conditions within which human freedom can be realized. There is nothing inevitable about the relationship between absolute freedom and the good as it is found in history.

Kissinger refused to believe that the truly creative political actor would be ruled by either dystopian or utopian aspirations, as his rejection of the eschatologies of Kant and Spengler shows. Nevertheless, he does see a tragic element to history that is intertwined with the inability of humanity to accept limits, the problem existentialists refer to as the refusal to recognize the "facticity" of life.⁴⁷ Nature, as history, always stands in ready opposition to overthrow the artist's creation; every generation must overcome its own abyss on its own terms. That is why, ultimately, progress is chimerical.

As Secretary of State, Kissinger expressed a view of the heroic actor in history that is strikingly similar to Nietzsche's outlook. Denying he was a "pessimist," he remarked that he was, in fact, simply a careful observer of history, which revealed a pattern of the rise and decline of civilizations and the ever-present "possibility of tragedy."⁴⁸ The true statesman, in other words, must see the abyss for what it is and persevere despite its existence.

History provides only data, not moral direction. Nor can moral direction come from God or any other transcendent source. Political leadership ultimately requires creating a moral framework, one that in the final analysis cannot be subject to scrutiny by others. In his senior thesis, Kissinger wrote:

Since an experience is always unique and solitary, its simultaneous appearance in others can not be postulated. For this reason, history offers no guarantee for the achievement of man's moral norms nor does it exhibit values in its own right. . . . The transcendental experience of the moral law, on the other hand, leaves the question of purposes in history undecided.⁴⁹

Kissinger's skepticism about intersubjectivity cannot help but affect his beliefs about progress. When he states that there is no inherent purpose or design within history, this is because purpose can only be decided by action, not by philosophy. But this is a dubious criterion for ethics in politics, one that would have effects both on Kissinger's further writings on international politics and, more importantly, on his own policies.

Kissinger on ethical dualism: theory and praxis

Kissinger's philosophy of history leads him to differentiate between morality and legitimacy. While the former is purely subjective and non-rational, the latter is the primary objective of the diplomat. Only belief in the legitimacy of the global order can guard against dissatisfaction, disorder, and chaos. Chaos is the greatest evil in the Kissinger economy, a fact that may have much to do with the chaotic circumstances of his childhood in Nazi Germany. One of the lessons he learned in those circumstances, and through his own part in fighting in the war, was that only force can overcome force. Morality in politics without force is of no value. This belief leads him to emphasize the role of power in his theory. The confluence of power and morality, for Kissinger, is legitimacy. But legitimacy shall not be confused with ultimate or transcendental justice: it is rather an agreement that is acceptable to those with different perspectives on what constitutes justice. Kissinger here echoes Weberian legitimacy, whose goal is peace through adjustment to difference by all parties. "Diplomacy in the classic sense, the 'adjustment' of differences through negotiation, is possible only in 'legitimate' international orders."⁵⁰

Should one inquire as to the limitations on means by which statesmen may morally achieve policy objectives, one is hard pressed to find them in Kissinger's thought. He makes recourse again and again to the distinction between armchair moral philosophy that may pass judgment on policymakers' intentions and the effectiveness of those actions in achieving legitimacy.⁵¹ The implication is that philosophers, ignorant of the lessons of history, can pretend that other alternatives were available. Kissinger accepts

the Kantian equation of the moral and the possible, but only after turning Kant's statement on its head. Where Kant believed "ought" implies "is," Kissinger believes "is" defines the limits of "ought."

Though Metternich never reaches the ideal of statesmanship, Kissinger still sees him as the kind of statesman who understands these crucial points. "[H]e was responsible only to his conscience and to history – to the former because it contained his vision of truth, to the latter because it provided the only test of its validity."⁵² As Peter Dickson points out, this statement applies to Kissinger, not to Metternich.⁵³ Metternich was constrained by his own transcendental religious beliefs. His world was not value-free, awaiting his own existential assertion of values to mold it. Kissinger, by virtue of his philosophy, is alone with his conscience and history. He is the consummate Weberian politician, who must serve as his own moral guide and who must be accountable to his own conscience. He alone must be responsible for his actions.

Kissinger adopts Weberian thought categorically at the end of *A World Restored*. His analysis mirrors Weber's language in "Politics as a vocation." Kissinger discusses "the temptation to conduct policy administratively."⁵⁴ Too often, nations attempt to conduct foreign relations the same way they conduct domestic politics. Domestic administration is largely a bureaucratic endeavor; international politics is creative. Additionally, unlike the bureaucrat, the statesman must be "responsible."

For this reason too, it is dangerous to separate planning from the responsibility of execution. For responsibility involves a standard of judgment, a legitimacy. But the standard of bureaucracy is different from that of the social effort. Social goals are legitimized by the legitimizing principle of the domestic structure, which may be rationality, tradition or charisma, but which is in any case considered an *ultimate* value. Bureaucratic measures are justified by an essentially *instrumental* standard, the suitability of certain actions for achieving ends considered as given.⁵⁵

In his essays on American foreign policy, Kissinger uses similar terms. He differentiates between the bureaucratic-pragmatic approach to foreign policy, which is ad hoc and renders policy-makers incapable of thinking in strategic terms,⁵⁶ and the policy of the "statesman," whose purpose is to manipulate reality in ways favorable to the objective of achieving strategic goals.⁵⁷ Because bureaucrats deal with the instrumental, they are not trained to consider the ultimate ends of policy, the strategic implications of decisions, or their political contexts. Policy controlled by bureaucratic engineers will be wholly inappropriate for the international sphere which involves the clash of different, ultimate ends. Only statesmen have the creative capacity to bring harmony out of the chaos.

For these same reasons, Kissinger notes that those engaged in statecraft

will always have to struggle with domestic political limitations or misunderstandings of their policy. Using language reminiscent of the artist's contempt for the philistine, Kissinger bemoans the inability of a people to transcend its own experience as the statesmen must. Each people has its own conception of justice which seems absolute. "But the international experience of a people is a challenge to the universality of its notion of justice, for the stability of an international order depends on self-limitation, on the reconciliation of different versions of legitimacy."⁵⁸

Kissinger recognizes that these limitations place an extraordinary burden upon his ideal statesman. He must bring harmony and order out of chaos, resist domestic bureaucratic thinking, and somehow legitimize domestically policies that may seem immoral to his own people.⁵⁹ Herein lies the tragedy and loneliness of leadership. He must pursue his creative vision, knowing that he will be utterly misunderstood.

The statesman is therefore like one of the heroes in classical drama who has had a vision of the future but who cannot transmit it directly to his fellow-men and who cannot validate its "truth". But statesmen must act as if their intuition were already experience, *as if* their aspiration were truth. It is for this reason that statesmen often share the fate of prophets, that they are without honor in their own country, that they always have a difficult task in legitimizing their programmes domestically, and that their greatness is usually apparent only in retrospect when their intuition has become experience. The statesman must be an educator; he must bridge the gap between a people's experience and his vision, between a nation's tradition and its future.⁶⁰

The traditions and policies of the past must be replaced by the guiding vision of the charismatic leaders who shape the horizons of the future. Only they can see beyond the present and anticipate what comes next, because they are able to shape history to conform to their creative vision.

Kissinger is not hopeful about this project. His tragic view is grounded in the fact that nations refuse to learn from the past. A certain wisdom, a presence of mind, is necessary even to recognize the constant perils present in history, let alone to render those forces harmless. Those who can see ahead often share the fate of Cassandra: they warn and are not believed. The truly creative statesman is the one who can transcend the tendency of the ordinary person to silence those with the insights necessary for national survival. "This is the challenge of history and its tragedy; it is the shape "destiny" assumes on the earth. And its solution, even its recognition, is perhaps the most difficult task of statesmanship."⁶¹

One ought not be surprised that such a solitary figure might have difficulty in conducting foreign policy in a democracy during a time of intense political division. Any political leader would have faced an overwhelming task in extricating the US from the quagmire of Vietnam while attempting

to limit its consequences for US prestige. Kissinger's beliefs could only add to that difficulty for two reasons. First, passages like those quoted above are not wont to give comfort to those already suspicious of the national security state. Second, one can legitimately raise the questions applicable to all the representative thinkers included here: how can an essentially existential or postmodern conception of international morality be reconciled with the needs of political accountability in a democratic state? More fundamentally, how can such a conception be reconciled with humanistic moral concerns in general?

Kissinger's policies during his tenure in the White House reveal both the virtues and the perils of his intellectual approach. His China policy was a masterful step that dramatically changed the dynamic of global relations. This policy arose directly from his belief that American policy-makers had been incorrect about communism and about the role of ideology in politics in general. The foreign policy establishment had long seen China as an appendage of the Soviet Union and asked "Who lost China?" Kissinger believed that nations, including China, had objective, permanent interests that could not simply be replaced by ideology. The important question was not who lost China but rather how to appeal to its interests in order to "get it back." The events which followed North Vietnam's victory over the South validated Kissinger's assumptions. The communist nations of Southeast Asia did not become one large cooperative bloc; instead, they engaged in bitter wars and pursued what they perceived to be their own national interests. But as one looks more deeply at the details of his policies, there are disturbing political patterns that are difficult to separate from his philosophy of history and of the role of the solitary and transcendent statesman.

The secrecy of the National Security Council in the White House, the exclusion of Secretary of State William Rogers – and the State Department in general – from foreign policy decisions, and the hoarding of policy control within the executive: all of these highlight Kissinger's tendencies towards autocracy. The decision to invade Cambodia was made against the advice of even his own NSC staff.⁶² The bombing of Cambodia, for example, and the CIA working group's decision – controlled by Kissinger⁶³ – to affect elections in Chile, seem consistent with a *Weltanschauung* of ethical dualism. These decisions reveal the disdain Kissinger had for ordinary moral constraints and their impact on statesmen. Ordinary morality is appropriate for ordinary people who do not have the weight of political responsibility on their shoulders. Charismatic leaders (in the Weberian sense) cannot, and should not, be required to remain within the confines of these limitations.

Kissinger's vision also failed him in his handling of Vietnam. His geopolitical perspective led him to predict correctly that North Vietnam would seek its own interests after the conflict ended. However, his concern for the prestige of the US led him down a precarious path with regard to the conduct of war and the withdrawal of US troops from Vietnam. For Kissinger, the great threat to world peace was the instability created by

revolutionary regimes. The revolutionary government of the North had to be taught proper diplomatic behavior, by force if necessary. This was to be accomplished by negotiating while continuing to engage in military action. It would be unwise, thought Kissinger, to withdraw unilaterally from Vietnam, while simultaneously attempting to convince the North to allow free elections. Most importantly, American credibility was at stake. Kissinger stated:

The commitment of 500,000 Americans has settled the issue of the importance of Viet Nam. What is involved now is confidence in American promises. However fashionable it is to ridicule the terms "credibility" or "prestige," they are not empty phrases; other nations can gear their actions to ours only if they can count on our steadiness.⁶⁴

Kissinger was correct insofar as he recognized that prestige and credibility have tangible value in the international sphere. But ironically, it was his fellow realists, like Morgenthau and Niebuhr, who understood that it was extremely risky to stake one's credibility upon winning a conflict half way around the world that did not appear to them or to the American people to pose an existential threat. After all, it had taken Pearl Harbor to draw the US into one of the worst conflicts the world had ever experienced.

Like Douglas MacArthur in Korea, Kissinger sought to end the war by expanding America's involvement rather than curtailing it. MacArthur was sent packing; Kissinger was not. Under Kissinger's direction, the US sought stability in Southeast Asia. In contrast, North Vietnam sought autonomy and greater regional influence according to its revolutionary and postcolonial morality. Kissinger's reconciliation of these interests had to appeal to some standard that transcended ordinary morality, which could only be known by Kissinger himself. Knowing that this extraordinary moral transcendence would never be understood or accepted by ordinary persons, he had to act in secret on their behalf.

It is true that Kissinger inherited a mess created by an earlier administration, one that a more realist and less liberal approach to policy might have avoided. However, Michael Joseph Smith, analyzing Kissinger's ethics, believes that Kissinger failed even by his own standards.⁶⁵ Kissinger once wrote that "the acid test of a policy ... is its ability to obtain public support."⁶⁶ Smith is surely correct in pointing out that Kissinger failed to do this. Nor was Kissinger able to leave his stamp upon American policy in the way he undoubtedly would have wanted. But Smith and other critics, and perhaps even Kissinger himself, overlook the extent to which Kissinger's foreign policy approach was entirely consistent with his philosophy. In fact, given Kissinger's larger philosophical vision, one might ask why he felt himself bound to any constraints at all in the pursuit of his foreign policy objectives. By definition, the ethic of responsibility, as a contract with the diabolical, cannot be constrained so easily. As the passages quoted above

show, Kissinger sees the tragedy of statecraft as a result of the incompatibility of power politics with domestic political limitations. This tragedy is the result, not of Cassandra's failure to speak out, but of Troy's inability to hear. Kissinger wrote:

A statesman who too far outruns the experience of his people will fail in achieving a domestic consensus, however wise his policies; witness Castlereagh. A statesman who limits his policy to the experience of his people will doom himself to sterility; witness Metternich.⁶⁷

Finding himself in power, with the stakes so high in the age of nuclear weapons and totalitarian states, Kissinger apparently decided that following Metternich's approach was unacceptable. He never inquired how it was, however, that the solitary creator of new horizons could *ever* be understood by his people in a democratic society on any other basis than charismatic authority. He never seems to have clearly thought out the incongruity between his theory of international relations and the normative foundations of liberal societies. Instead, as a matter of praxis, he frequently sought to circumvent them.

Hans J. Morgenthau: *Aristeia* and international ethics

Hans Morgenthau's approach to political ethics is the most self-consciously constructed theory advanced by leading American realists. Morgenthau was aware of the ethical dilemmas presented by international relations in an anarchic world. Like other realists, he was haunted by the profound element of tragedy in human history and disturbed by the failure of scholars and policy-makers alike to acknowledge its presence.

Nietzsche was tremendously important for Morgenthau's early intellectual development, though he played down his role in later years. In fact, he says nothing about him in his own autobiography, preferring to cite Weber as his intellectual role model.⁶⁸ As Christoph Frei's intellectual biography of Morgenthau shows, however, Nietzsche was *the* critical figure in his intellectual development. Frei writes, "Hat Morgenthau einen geistigen vater? Um es vorwegzunehmen: die Antwort lautet 'Ja'. – Sein Name? Friedrich Nietzsche."⁶⁹

In his diary, Morgenthau confirms this assessment, speaking of Nietzsche in almost divine terms and making it very clear that Nietzsche profoundly affected his own philosophical views.⁷⁰ The young Morgenthau, living in the perilous times of Weimar Germany, was attracted to Nietzsche's intellectual integrity. He believed himself to be much like Nietzsche in that both were alienated from German society and thought, and both were figures who did not fit well within the constraints placed upon them by German culture. It is no surprise, then, that Morgenthau was especially moved by Nietzsche's *Unzeitgemässe Betrachtungen*, a title which later could just as easily have been applied to his own work.

Morgenthau's approach to international relations centered on a few important principles he derived from Nietzsche's works and which he felt had been ignored by other theorists. Most important among those were the autonomy of politics and the role the will to power plays in human affairs. The two are, in fact, corollaries of one another. Given his belief in power as an objective principle, it might seem odd to conclude that Morgenthau has any connections whatsoever with postmodernism. Postmodernists do not often use the language of objectivity. But by looking more closely at his view of tragedy, we can see that his empirical vision is also heavily affected by Nietzsche's rejection of objective rationality and rational ethics. This fact cannot help but have significant consequences for Morgenthau's political theory.

Morgenthau as a social constructivist

Morgenthau's philosophy is most clearly seen in his work, *Scientific Man vs. Power Politics* (1946). This book, published when Morgenthau was at the University of Chicago, attacked Enlightenment rationality and its misapplication in politics. At a time when behavioralism in the social sciences was becoming ascendant, Morgenthau's critique of "the irrationality of scientific man" was not well received.

The social constructivist qualities of the work are most apparent in his discussions of epistemology. Morgenthau creates a dichotomy that by now ought to appear familiar. He distinguishes between the natural world of phenomena and the world of human affairs in which human consciousness plays the central role. The great error of liberal rationalists is mistaking the principles of one for the other. The influences of Kant, Nietzsche, and Weber on Morgenthau can be gleaned from his discussion of this mistaken "unity of nature and society." Speaking of the physical or phenomenal world, he states:

We are able to know [the physical world] only within the limits of our cognitive faculties; that is, we know it only in so far as the structure of our mind corresponds to the structure of the physical world. On the other hand, the relationship between mind and nature is not exclusively cognitive even when the human mind confronts nature only for the purpose of perception. It cannot do so without intervening in its course and thus disturbing it. . . . Nature as the object of human knowledge is, therefore, somehow the product of human action.

This creative influence is strongest when intervention and disturbance are not the mere by-product of a cognitive purpose but the goal of purposeful action itself. Inasmuch as nature is subject to human action, it is the human mind which actually creates it, and the creation must bear witness to the quality of the creator.⁷¹

If this is true of nature, it is even more true of society. Social scientists cannot be objective. Analysis itself influences its own objects of study.⁷²

Not long after this passage, we see Morgenthau reaching conclusions similar to those of Nietzsche concerning the place of human will. If the phenomenal world is in some way the function of the will, then rationality as such is illusory. "However, the common element of which mind, nature and society partake is no longer reason pure and simple but reason surrounded, interspersed, and underlaid with unreason, an island precariously placed in the midst of an obscure and stormy ocean."⁷³ Apollonian reason is surrounded and permeated by Dionysiac irrationality. "Even when we speak of 'the pure reason of the natural scientist,' we cannot mean a reason divorced from the irrational forces determining human behavior but only a reason whose cognitive relation to its object is not influenced by its irrational determination."⁷⁴ Reason is the force which brings harmony to competing irrational impulses. Once an end has been decided upon, reason may be consulted as to how to effectively achieve it. "The triumph of reason is, in truth, the triumph of irrational forces which succeed in using the processes of reason to satisfy themselves."⁷⁵ Our preferences are creations of our values that are themselves irrationally created. We may think that reason provides answers within ourselves; in reality, this is simply the victory within of the strongest impulses over those which are weaker. Strength uses the language of reason to justify itself.⁷⁶

The creative political leader, however, requires some kind of data upon which to act. Thus Morgenthau places limits on the contingency of knowledge. The world is "not devoid of a measure of rationality if approached with the expectations of MacBethian cynicism."⁷⁷ Like Weber, he believes patterns can be discerned in history that reveal the possibilities with which we must contend. The ability to discern what those patterns or ideal types are, and the courage to respond to them, are both necessary virtues for leaders to develop. Given the irrational origins of reason itself, the political leader must struggle to make sense out of the political environment. "While his mind yearns for the apparent certainty of science, his actual condition is more akin to the gambler's than to the scientist's."⁷⁸ The data of international relations theory are the events of history; and though history is contingent, it will yield up only a few possible alternatives for which those in leadership must prepare.⁷⁹ Their duty is to state things simply as they are and find ways to respond to the facticity of circumstances. This aspiration forms part of Morgenthau's debt to Nietzsche and is indicative of the role Nietzsche plays in realist thought in general. As Christoph Frei writes: "So liegt Morgenthau bei Nietzsche, um es dann später selbst zu sagen: 'Je constate simplement ce que je vois.' Denkursprünge eines Realisten."⁸⁰

Morgenthau on progress

Morgenthau's view of progress is shaped by his belief that life is tragic. Nietzsche believed the recognition and portrayal of tragedy represented a

means of coming to terms with the meaninglessness of human existence. Where Nietzsche believed the loss of the tragic vision to be exemplified by Socratic rationality (and Italian opera), Morgenthau sees evidence of this loss in the scientific approach to international affairs.

For Nietzsche and Morgenthau, man's existence is like that of Tantalus for whom the objects of desire were in view but always just out of reach. In a few remarkable pages of *Scientific Man*, Morgenthau expresses his tragic vision and its implications for the idea of progress. This vision arises out of the fact that human nature is perennially motivated by the *animus domini*, the will to power. All of politics relates to that basic motivation, which Morgenthau calls "a general quality of the human mind."⁸¹ The centrality of the will to power carries over into his theory of international relations. In *Politics Among Nations*, he states: "All politics, domestic and international, reveals three basic patterns; that is, all political phenomena can be reduced to one of three basic types. A political policy seeks either to keep power, to increase power, or to demonstrate power."⁸² Considering that Morgenthau relegates political activity to the realm of the diabolical, his definition of politics has profound consequences for ethics. But it is also closely connected to his belief that humanity's ability to transcend its own worst instincts is a noble but ultimately futile hope. "Suspended between his spiritual destiny which he cannot fulfil and his animal nature in which he cannot remain, he is forever condemned to experience the contrast between the longings of his mind and his actual condition as his personal, eminently human tragedy."⁸³

For this reason, Morgenthau is adamant that policy-makers recognize the futility of the progressive, liberal approach to international affairs. It is founded upon the illusion that, just as problems in the natural sciences are solved once and for all, so can problems in the social realm be overcome with permanent solutions. Human problems are eternal: the struggle to deal with the inappropriate assertion of power is never solved for all time. All victories are "provisional" because "a slight change in the relative strength of opposing forces may reverse the positions."⁸⁴ The belief in progress is a direct result of the loss of the tragic vision that pre-rational societies accepted as conclusive. For these societies, "[t]here is no progress toward the good, noticeable from year to year, but undecided conflict which sees today good, tomorrow evil, prevail."⁸⁵ The traditional view of Western civilization, says Morgenthau, understands evil as an inherent part of life; it is not going to be expunged by progressive policies.

In this tradition God is challenged by the devil, who is conceived as a permanent and necessary element in the order of the world. The sinfulness of man is likewise conceived, from Duns Scotus and Thomas Aquinas to Luther, not as an accidental disturbance of the order of the world sure to be overcome by a gradual development toward the good but as an inescapable necessity which gives meaning to the existence of

man and which only an act of grace or salvation in another world is able to overcome.⁸⁶

This is not the place to discuss the theological correctness of this perspective, particularly the idea of sin as “necessary.” Morgenthau’s beliefs are surely closer to the Athenian cosmology, and the belief in *moira* as fate, than that of Jerusalem. But this passage reveals his belief in the permanence of conflict, in its ineradicability from human nature.

Politics is autonomous because power is an autonomous force in the human psyche. Morgenthau states, “In our time Sigmund Freud has rediscovered the autonomy of the dark and evil forces which, as manifestations of the unconscious, determine the fate of man.”⁸⁷ Because the will to power lies in human consciousness itself, no scientific understanding can cure the problem of conflict. As was the case with Freud, the best we can hope for is alignment, the adjustment of forces to bring balance and coherence to international life.

Morgenthau on ethics

Morgenthau rejects the ethical dualism of the *Realpolitik* tradition, the belief that individuals and states ought to live by two different standards. The morality of states is actually the morality of individual policy-makers who, if the ideal of an international ethic is to have any coherence, must be accountable for their policies.⁸⁸ But the ethical constraints placed upon foreign policy are not completely clear in Morgenthau’s theory; there is an ambivalence to the meaning of morality as he moves between empirical and normative observations.

Empirically, ethical decisions are made with both power and morality in mind. A policy which ignores power is dangerous while an absolutely amoral politics is untenable in the long run. On the one hand, carrying out an international political strategy entails “a continuing effort to maintain and to increase the power of one’s own nation and to keep in check or reduce the power of other nations.”⁸⁹ On the other, legitimacy, which is not to be confused with force, requires that political leaders should not violate their own consciences nor those of their fellow citizens lest legitimacy be lost. These moral rules pose what Morgenthau calls “an absolute barrier” to immoral policies though “such ethical inhibitions operate in our time on different levels with different effectiveness.”⁹⁰

Morgenthau’s empirical assessment of ethics is similar to his understanding of progress. This is not accidental, as both arise from his definition of politics as the realm of the *animus dominandi*. There is a profound discontinuity between the classical Greek and Christian period and that of modernity. Though Greek cosmology was cyclical and Christian cosmology linear, both saw the presence of evil as something permanent in the world that could not be eradicated completely. With the Enlightenment and the rise of

rationalism came a belief in the ability of humans to transcend evil through the application of their rational faculties. Modernists misunderstand the fact that the moral dilemmas we face are eternal, that they arise out of the “discord between man’s desire and his actual condition.”⁹¹ Each of us plays a number of different roles, all of which may require contradictory ethical duties. Morgenthau refers to these conflicts as “insoluble,” leading him to state that choice involves “the inevitability of evil.”⁹² His understanding of what is entailed by evil is strikingly similar to Weber’s descriptions of the diabolical quality of politics in “Politics as a vocation.” For the ethical actor engaged in politics, the choice is not good v. evil but rather “not being too evil.”⁹³ Indeed, it is not the case that non-political action is good and that of politics evil. All human action is subject to corruption; the corruption of political action is simply the “prototype of all possible corruption.”⁹⁴

That political action and doing evil are inevitably linked becomes fully clear only when we recognize not only that ethical standards are empirically violated on the political scene . . . but that it is unattainable for an action at the same time to conform to the rules of political art (i.e., to achieve political success) and to conform to the rules of ethics (i.e., to be good in itself). The test of political success is the degree to which one is able to maintain, to increase, or to demonstrate one’s power over others. The test of a morally good action is the degree to which it is capable of treating others not as a means to the actor’s ends but as ends in themselves.⁹⁵

This passage shows why our moral aspirations will never be fully met and reveals key premises of Morgenthau’s normative theory. The purely good, for Morgenthau, is defined in Kantian terms, but the idea of an action as good-in-itself is a luxury the politician cannot afford. “Whenever we act with reference to our fellow men, we must sin, and we still sin when we refuse to act; for the refusal to be involved in the evil of action carries with it the breach of the obligation to do one’s duty.”⁹⁶ Like Weber, Morgenthau combines Kant and Nietzsche to produce a synthesis in which duty is paramount, but the moral content of that duty is ultimately inscrutable. The Nietzschean aspect of Morgenthau’s position becomes even more apparent in his response to this tragic contradiction. “To know with despair that the political act is inevitably evil, and to act nevertheless, is moral courage.”⁹⁷ The statesman requires courage to face the inevitability of evil inherent in political action and the courage to accept the “unsolvable contrast between what he needs, what he wants and what he is able to obtain.”⁹⁸

This is not to say, from a normative standpoint, that there are no moral constraints on statecraft, a position Morgenthau was often accused of holding. His theory is not the mere Americanization of European *Realpolitik*.

Morality must be situated and expressed in the experience of a culture or a nation in order to be comprehensible, but Morgenthau does not advocate cultural relativism. All cultures participate in a common moral experience that brings a certain uniformity to conscience as it unfolds in history. "We are all moral beings to some degree because we are human."⁹⁹

How do you explain that the moral ideas of Plato and Pascal, of Buddha and Thomas Aquinas are ... acceptable to our intellectual understanding and moral sense? ... It is only because we as moral beings have something in common with all other men – past and present – that we are able to understand ... the core of the moral systems of others.¹⁰⁰

Common moral principles do not just empirically place limitations on policy: they ought to do so. Morgenthau sees this as a normative good, giving examples of these limitations in history. No justification for mass extermination of one's enemy, for example, is available on the basis of political expediency. It is proscribed by "absolute moral principle" that stands resolutely in opposition to expediency.¹⁰¹

Despite these statements, Morgenthau was frequently criticized for holding to an amoral political position. After such criticisms were leveled against *Scientific Man*, he wrote despairingly in a letter, "They literally don't know what I am talking about."¹⁰² To some degree, he was surely right. As Allan Bloom points out, Americans had appropriated much of German thought without fully understanding its implications.¹⁰³ When confronted with the tragic side of *Kulturpessimismus*, they were at a loss to comprehend it. The constant refrain in Weber and in Morgenthau, concerning the role of evil in human action, could only appear incomprehensible to pragmatic and victorious Americans after the end of World War II. The leap from "Politics as a vocation" and "Science as a vocation" to Talcott Parsons' social theory is just one example of this phenomenon. Yet Morgenthau himself must be held partly responsible for this misunderstanding. The ambiguity in his work on the role of morality is not just the result of specious interpretations by "scientifically minded" critics. One reviewer notes:

Morgenthau's pessimistic view of man raises an additional difficulty. The pervasive evil in human nature and politics rendered his formal ethic so transcendent that it could not easily function as a vital force directing man's creative energies in an imperfect world. ... Morgenthau believed that operative political norms are ultimately derived from transcendent ethical principles; however, he was less helpful on how, and to what degree, these principles are capable of guiding political action when distorted by the institutions of sinful man.¹⁰⁴

Thus, on the one hand, Morgenthau could write in a letter to Edward Dew, "I affirm two basic moral values: the preservation of life and freedom in the

sense of the Judeo-Christian tradition and, more particularly, of Kantian philosophy.”¹⁰⁵ On the other hand, he wrote “It is impossible . . . to be a successful politician and a good Christian.”¹⁰⁶ As with Weber, ultimate, absolute ends seem to collide with the necessities of countering power with power, a response that in turn requires the willingness to engage in evil to prevent a worse evil.

One might suggest that, for Morgenthau, ethics and politics could be synthesized through prudence or *phronesis*, practical reason. The classical concept of prudence, particularly as understood by Aristotle, is one of aligning means and ends in a way that cannot be systematized outside specific circumstances. It involves doing the right thing at the right time and is derived from experience. Morgenthau seems to have something like this in mind. Morgenthau contrasts the mentality of the statesman with that of the engineer. Whereas the engineer seeks certainty and absolute rules that can be applied in every situation, the statesman must be guided by the particularities and needs of specific circumstances. He quotes Edmund Burke’s comments on the prudential approach to statecraft. “A statesman, never losing sight of principles, is to be guided by circumstances; and, judging contrary to the exigencies of the moment, he may ruin his country forever.”¹⁰⁷ Prudence as *phronesis*, however, requires a guiding principle that assumes much more certainty than we can find in Morgenthau’s epistemology. Aristotelian and medieval conceptions of prudence articulate moral absolutes – i.e. specific virtues that ground the moral experience of moral actors. These absolutes set limits on the applications of prudent action. Truthfulness (*aletheia*), temperance (*sophrosune*), and courage (*andreia*), for example, are all required of ethical political actors. It is not the existence of ethical precepts but rather their application that is contingent. In the Hellenic period, the substantive element of *phronesis* was rooted in the virtues of the polis; in the medieval era, it was connected to the virtues of European Christendom. Without this element, prudence collapses into a malign cleverness (*deinotes*), precisely the quality Morgenthau criticized in Carr’s theory of statecraft.

Prudence, in Morgenthau’s theory, is more akin to, though not identical with, Kant’s understanding of *phronesis* than Aristotle’s. The Kantian notion involves a calculation of interests. Because one considers consequences, *phronesis* cannot be connected to the purely good for which intent, not consequences, are paramount. Thomas Spragens sums up Kant’s position as follows:

“Prudence,” . . . has for Kant none of the ennobling overtones of Aristotelian *phronesis*. It is no longer the practical knowledge of what is good for man but simply the skill of calculating accurately the best means to one’s self-interest . . . The prudent man is not, then, the man of moral wisdom venerated by Aristotle; he is the Benthamite petty shopkeeper despised by Marx.¹⁰⁸

I do not want to draw too strong a link between Bentham's prosaic utilitarianism and Morgenthau's Hellenically oriented consequentialism. What remains Kantian in Morgenthau's theory, however, is that politics remains within the world of the phenomenal whereas the good remains in the transcendent realm of the noumenal. As is the case with other realists, the connection between the two realms is tenuous at best. Because the purely good cannot take consequences into account, and politics requires a measuring of consequences, politics is inevitably evil. As Spragens explains Kant's position, the "very lack of empirical content [in pure practical reason] is what guarantees its moral purity."¹⁰⁹ What ennobles the engagement of evil in Morgenthau's theory is the fact that it is done not to serve one's own interests but those of one's country.

Nietzschean pessimism and prudence collide in Morgenthau's theory. Nowhere are we shown how, in an era which has heralded the death of God, we can retain any kind of real transcendence from the contingency of history. Morgenthau's ethics and his attachment to humanism are the result of existential assertiveness rather than transcendence per se, a kind of Nietzschean equivalent of faith.

Conclusion

The realists examined in this chapter are united by the German origins of their thought, and by their attachment to Kant and Nietzsche in particular. They share a common understanding of the impossibility of moral certainty in the post-Kantian world, a recognition which forms the basis of their tragic vision of life. Though none of them advocates an amoral political or foreign policy perspective, this uncertainty makes it difficult to draw boundaries around moral actions. Their commitments to democratic life and humanistic ethics cannot easily be attached to their epistemic assumptions; these commitments seem to arise more from existential assertiveness, the desire to engage in the process of world-creation as an act of will.

Ironically, this existential assertiveness is an important characteristic they share with liberals. Neither liberals nor the realists examined here can convincingly show how anything other than imagination can connect the phenomenal and noumenal realms. Imagination is a dubious basis for international ethics; consequently, realist and liberal theories alike, attempting to outline a moral basis for politics, routinely end in the uncertainty of postmodernity.

Realists criticize liberal chiasm, objecting to the way liberal theorists ignore the reality of evil and the role of power in history. That critique is valid up to a point. But realists have a more difficult time expressing a constructive moral perspective. Since realists view the good as being synonymous with the noumenal, it remains unclear how political life escapes the maw of evil in phenomenal human action or upon what foundation the good life can be built. Herein lies the postmodern connection. Both postmodernity and

realism are critical of the scientism of liberal theory, its tendency to mask power with unitary rationality, and its belief in the inherent harmony of interests among reasonable people. As both postmodernists and realists have German roots, this ought not be surprising. But realism also shares in the problems of postmodernity. It cannot escape the contingency of history. There is no inherent reason why realists ought to assume humanistic values are the correct values to substantiate. All of these realists reject the total transvaluation of all values (to use Nietzsche's term). Given their assumptions, however, it is not clear why they ought to do so. Whereas liberals misunderstand Nietzsche, realists cannot seem to transcend him. Liberals may be blinded by Apollo, but realists are mired in the chthonic realm of Dionysis.

Covenantal thought provides a way out of this morass. As evidenced by its origins in religious tradition, covenant recognizes the fact that humanity is mired in sin (a point also recognized by Morgenthau and Niebuhr). As Elazar points out, covenantal thought is profoundly realist in its perception of the range of human behavior, good and evil.¹¹⁰ Yet the idea of the covenantal community is rooted in the belief that regeneration and progress in history are possible and, thus, that history is directional and meaningful. Unlike liberal theory, however, covenantal thought does not see this progress as an inevitable outcome of increasing rationality or economic growth. The covenantal political paradigm requires carefully constructed institutions that stand alongside carefully constructed social relationships. Both are engaged in a partnership which serves to achieve a moral vision rooted in a belief in transcendent values. This vision cannot help but have implications for international relations, the point to which I now turn.

6 Covenantal epistemology and international ethics

The original vision of liberal thought contains elements that are of great value for developing a comprehensive theory of international ethics. Liberalism originated in profoundly spiritual and moral conceptions of the dignity of human life, though it took centuries for those beliefs to be applied comprehensively and to be given real political meaning. Early liberals believed their own moral premises, grounded in theology and natural law, served as the basis for a general – but universal – understanding of the human good. Rights, liberty, equality, and property were not just procedural attachments but substantive necessities for pursuing the good life.

Hans Morgenthau is correct in saying that liberal international relations theory is rooted in domestic liberal theory. But that is not necessarily a vice. Humanistic advances have largely occurred within liberal states. Liberal international theory developed as an analogy to conditions within those states. Therefore, a viable liberal international theory must be rooted in a viable domestic theory. This theory must overcome the limitations of interest-oriented instrumental rationality *and* of deontic ethics that ignore the role played by tragedy and evil in frustrating our best intentions in the formation and implementation of policy. Such a revised liberal theory ought to take into account the empirical research of international behavior to see what patterns have emerged in the two centuries since the rise of the first liberal states. It ought to contain a perspective which limits imprudent vehemence, the liberal tendency towards imperialism in the name of liberal values. And it must account for the ongoing presence of evil, a fact of international life that cannot be wished away. While *phronesis* or *prudentia* can accomplish many of these requirements, prudence must be grounded in a transcendent moral perspective. Without transcendence, and some understanding of the good to be achieved, prudence too easily becomes cleverness. The formal and substantive elements of covenantal relationships provide prudence with its moral foundations, creating the possibility for a theory of liberalism that can overcome its present flaws.

Chapter 1 outlined some of the specific characteristics of the covenantal order, such as the need for power to be dispersed and to be used ethically to achieve substantive goods. These requirements are essentially rooted in a

foundation of ethical, epistemic, *and* political realism. This further separates covenantal theory from late liberalism and post-Kantian realism. Not only are prudence and ethics synthesized in this theory for the purposes of founding and structuring a domestic political order, but the specific requirements of foreign policy must be consistent with a transcendent perspective on ethics as well. In this chapter, I summarize the epistemic and ethical premises of covenantal theory and discuss some of their implications for international ethics.

Premises of covenantal ethics and epistemology

The premises of covenantal epistemic and ethical unity can be summarized as follows.

Premise 1: There is a fundamental intelligibility in the uniformity of phenomena that allows for potential knowledge of consistently interacting entities.¹

This premise is the basis for any viable philosophy of science, social or natural. In addition, it is the basis for a viable covenantal liberal ethical theory. Here we are confronted with a dichotomy similar to that outlined by MacIntyre in *After Virtue*. MacIntyre shows that there is a fundamental choice that must be made between both the epistemologies and the ethics of Nietzsche and of Aristotle. In this instance, Nietzsche and Aristotle serve as metonymies for emotivism and classical rationality, respectively. One might just as easily characterize the bifurcation as existing between Kant and Aristotle. Be this as it may, I have outlined the consequences of this agnosticism as it affected the thought of many liberal and realist thinkers. What these thinkers have in common is a commitment to some form of relativistic, social constructivist epistemology. This is not merely constructivism based on an empirical recognition of culture as practices, but a normative project of the relativization of the criteria of knowing altogether.²

I emphasize the word “potential” above because of the importance of retaining a contingent element in the premise. This avoids two hazards of Kantian epistemology: the difficulty in showing the potential for error (falsifiability) and the lack of consequentialism. Both aspects of Kantian theory overestimate the power of a priori thought. As a result, they denude science and ethics of their actual potential to shed light on the human condition and the phenomena within which it is placed. Once again, one might reasonably wonder why this point is important in a treatise on international politics. But it is precisely because of the existence of contingency and error in the use of power that a limit on power is required. Morgenthau is absolutely correct in recognizing the importance of scientism in leading to a number of pernicious outcomes in the international sphere. The roots of that scientism are seen quite clearly in Kant’s flawed epistemology. In contrast Habermas,

who is in many ways sympathetic to the Enlightenment project, recognizes there must be a multiplicity of sources of political discourse precisely because of the need for continued reasoning about the connections between percepts and concepts in particular situations. A unitary hierarchical system of political organization can only lead to a unitary and hierarchical system of thought, with disastrous outcomes.

Like other critical rationalists, Habermas has long cited the need for a dispersal of information sources, a necessity of his scheme of communicative rationality.³ Even Rorty, with his horror of foundationalism, recognizes the moral worth of dispersed sources of communication.⁴ Discursive theorists, particularly those relying on phenomenology, have reached similar conclusions. Merleau-Ponty's writings on the role of intentionality reflect an understanding that actors act subjectively but within a shared intersubjective world.⁵ However, this world is not simply a collection of phenomenal stuff to be molded according to the wishes of some noumenal Cartesian will. Our relationship to the *Lebenswelt* (the intersubjective lifeworld shared by all) and to each other within it inherently implies certain ethical requirements. As Alan Wolfe notes, "We are not social because we are moral; we are moral because we live with others and therefore need periodically to account for who we are."⁶

The synthesis of subjective and objective realms in phenomenological unity requires that we do not fully objectify others, making them tools of our own will. As we share in a common objectivity, we would then only objectify ourselves. This observation is not far from Kant's dictum that we ought never to treat others as means, only as ends. But the phenomenological synthesis brings together the noumenal and the phenomenal realms, to use Kantian terms, and thus avoids the epistemic dead ends of Kantian theory. The political implications of this observation lead to an aversion to hierarchy. Hierarchy involves domination and a limitation on discourse. These limitations, in turn, lead to lower levels of information being available to decision-makers, which is both inefficacious and immoral.⁷

The epistemic realism⁸ of covenantal theory also avoids the mistake of relying too heavily upon positivism, namely the verifiability criterion of meaning. Ethics cannot be founded upon this dubious basis.⁹ The immorality of genocide, for example, cannot be sensorially demonstrated; yet no international ethic is plausible without a prohibition upon it.

This point recalls Thomas Spragens' assertion that the fundamental error of the Enlightenment's epistemology was in denying that the "senses are competent to perceive dynamic patterns of becoming."¹⁰ Had classical liberals, including Locke, been content with showing the reliability of first-order beliefs, and thus of the entire project of science, Hume might never have been led to undermine rational epistemology. This, in turn, might have prevented the Kantian response. Fortunately, most diplomats, political leaders, scientists, and others engaged in the practical work of political and

intellectual life, have ignored these extremes and have found what Jaki terms, in the case of Newton, “the instinctive middle.” For them, ontology has preceded epistemology. Political actors have, more often than not, assumed the reality of human suffering and the benefits of bringing justice to the oppressed, though these are entities that are difficult to verify empirically.

Premise 2: Any consistent humanistic ethic requires the belief in the intelligibility of moral phenomena, that they are accessible to human reason.

As was the case with the development of the natural sciences, the science of ethics was developed within a framework of epistemic realism in which transcendence was originally guaranteed by an appeal to deity. This is simply an explanation of origins, not a justification for particular findings. Nevertheless, one should not commit the genetic fallacy and hold that earlier developments in ethics are rendered irrational because of their origins, a requirement that would force us to throw out several hundred years’ work in physics, for example, simply because of the epistemic beliefs of Newton, Kepler, Maxwell, and others influenced by theology. These conclusions must be judged by rational criteria. If international ethics is to be placed upon a firmer foundation than that provided by international realists or contemporary liberals, a nexus between reason and ethics is absolutely necessary.

Is judgment of this kind possible? Ethologists (in the broadest sense of that word) have argued that not only is it possible, it is a requirement for survival. They point to the historical evidence that humans adapt to particular circumstances of survival and that societies, like individuals, devise, or return to, rules that will allow them to flourish.¹¹ One benefit of this approach is that, like phenomenology, it circumvents the noumenal–phenomenal divide. As Kuhn argued, many scientific controversies are never resolved; they are simply bypassed. That may be the case with the Hume–Kant epistemological conundrum. Yet, this is, in a way, a *deus ex machina* response. Ethological explanations of knowledge may provide answers to epistemic questions, but they raise other problems with regard to norms. Political actors deal with issues that span days or years, not millennia or eons. In addition, critics, and increasingly defenders, of ethological approaches are quick to point out that even if they have any merit, they simply answer empirical questions, not normative ones.¹² Such studies can tell us much about the range of behaviors we can expect to see. As the concepts and methods of these fields are refined, we may be able to learn more about the likelihood of policies succeeding or failing.¹³ But these findings can only serve instrumental purposes. In nature, “is” cannot and must not be “ought.”

MacIntyre’s work provides a better (and more useful) account of the nexus between reason and ethics that operates at the level of consciousness. His account of the virtues shows that, whatever our particular designs are, we

have need of the virtues in order to accomplish them. Virtue has a strong practical quality to it. We see this in his definition of virtue as “an acquired human quality the possession of which tends to enable us to achieve those goods which are internal to practices and the lack of which effectively prevents us from achieving any such goods.”¹⁴ The practice of virtue requires *phronesis*, knowing which virtue to emphasize at which time. This can only be learned through carefully cultivated experience within community. Most importantly, virtue is accessible to attentive human reason, though not to those interested in a priori rule-formulation. There is, rather, a close linking of right and circumstance, involving relativity rather than relativism. On this point, MacIntyre’s approach resembles Morgenthau’s, especially when the latter discusses the “certain relativism in the relation between morality and foreign policy.”¹⁵ Transcendent principles remain; their application, however, is a matter of judicious observation of circumstances.

Phronesis cannot be equated with the postmodern epistemic position which would place moral judgments beyond the scope of reason altogether. As we have seen, doing so leads the ethics of statecraft down the perilous path of private morality, a position unacceptable in a democratic state. Because grounds for ethical judgments may not be immediately apparent to all, they remain accessible and discernible to rational and attentive minds. Unlike a priori or postmodern approaches, moral realism requires a defense of one’s logic and one’s premises in the application of moral principle to specific circumstances. And, as Alberto Coll explains, though prudence is not equated with morality, prudent political decisions are “ultimately grounded and justified by it.”¹⁶ The benefit of this tradition of prudence is that, unlike secular realism (Coll’s term), it retains an attachment to transcendent norms while similarly rejecting the moral blindness of “radical Christian and secular millenarians, utopians, and revolutionaries.”¹⁷ Joseph Nye also highlights the role of prudence in his discussion of international ethics. Nye believes that the compulsive rule-orientation of deontic ethics can be dangerous when applied in a “one-dimensional” way.¹⁸ In some situations, there can be competing moral claims which political decision-makers must examine. Nye suggests two intellectual devices that can keep prudence from devolving into an amoral consequentialism. First, he writes that we should always “start with a strong presumption in favor of rules and place a substantial burden of proof upon those who wish to turn to consequentialist arguments.” Nye adds a test of proportionality to this decision-rule that takes into account long-term effects of judgments on “the system of rules.” Second, decision-makers ought to “develop procedures which protect the impartiality which is at the core of moral reasoning and that is so vulnerable in the transition from the deontic to the consequentialist approach.”¹⁹ Prudence, then, is a necessary component of moral decision-making, but it is only meaningful as an extension of principled policy. Without it, principles can become the basis for tyranny. However, prudence alone, unattached to some transcendent conception of the good based on shared values, cannot

help but be a destabilizing social force exercised by those with the resources and skills necessary to secure their own good at the expense of others.

Premise 3: Liberalism is a tradition with an implicit teleology.

Throughout this book, I have argued that morality must be considered as a beneficent synthesis of the rational pursuit of immanent interests and a sense of obligation that transcends those interests. However, this project has not dealt in any significant measure with the sources of ethical transcendence. My intention is not to develop a wholly new ethical philosophy but, rather, to deal with the implications of theories already in existence. One can certainly examine questions relating to political ethics empirically, as Morgenthau did, and recognize the existence of a moral impulse that is universal. One can go beyond this recognition to Strauss' contention that natural right is ubiquitous, intelligible, permanent, and that despite ethical variations, there is a fundamental unity that allows us to make sense of those variations. One can turn to contemporary comparative ethology and claim that moral sensibilities are part of our genetic makeup. However, religion is the most common source of conceptions of transcendence and universality, as well as of specific mores and practices. Whether we examine the pietism of Kant and Weber, or the curious tendency of existentialists and poststructuralists to operationalize radical authenticity via a return to Marx, Nietzsche's interpretation of the modern humanistic ethic of rights and equality seems to be correct. They do have religious, or in some cases, ideological, origins. Yet the question remains as to how it is that given its contingent origins, liberalism can establish universal and transcendent principles.

The analytic objective herein is not to answer this question definitively and universally. There can be no such answer for one simple reason: MacIntyre is correct in arguing that we can make no sense of liberalism as anything other than a tradition, one that rivals previous traditions but does not transcend their status as the result of contingent historical developments. There is no pinnacle of disembodied ahistorical reason detached from a particular vision of human goods from which Locke, Kant, or Mill could descend with tablets of immutable truth. Fukuyama's recognition that liberalism must reach beyond its own principles to succeed applies equally to the question of its origins as well. Liberals must recognize that while the general aspirations of liberal theory may be shared by many, the extant version of liberalism found in global politics today contains much more than neutral principles refereeing between individual preferences; it is a tradition with an implicit teleology, one with its own set of virtues that must themselves be evaluated morally and prudentially in the light of that teleology.

While late liberal thought has a great deal of difficulty incorporating this element of ends, it is critical to covenantal thought. For this reason, Michael Walzer notes that the first covenantal order, that of the Jews leaving Egypt, is the "first description of revolutionary politics."²⁰ It is no coincidence,

then, that Puritans, socialists, African-American slaves in the South, civil rights marchers, and liberation theologians have relied on that peculiar narrative. As Walzer points out, it “isn’t a story told everywhere; it isn’t a universal pattern.”²¹ Indeed, many cultures have created what might be called ahistorical histories, profoundly ateleological in nature, in which the cycles of history go on and on eternally. Even the Greeks held this view. As Fukuyama points out, a belief in progress, universalized by religious historical perspectives in Judaism, Islam, and Christianity, was critical to the development of liberal thought.²² That perspective continues to be just as important today, even in a secularized form, for sustaining a humane ethic in the international realm. Nowhere is this made clearer than in the ostensible liberal goals of world peace and the dissemination of the rule of law. Liberals hold to the principle that such changes involve normative and empirical *secular* trends (in both senses of that word) in human history, the most important of which is the inherently teleological peace thesis.

The attachment of liberals to the democratic peace thesis cannot simply exist because of its empirical power; the crossing back and forth between empirical and normative realms occurs too often for that to be the case. I have already raised my objections to the liberal interpretation of the pattern in the context of my discussion of Fukuyama’s view of history. The strength of *megalothymia*, its untamability, is an issue not only for domestic politics, but for international relations as well. Why this should be so is obvious if we return to Moravcsik’s understanding of preferences. Should domestic preferences change, there must be international consequences. Realists from Thucydides to Robert Gilpin provide us with a tragic but pertinent and necessary reminder that change does not occur *in* history; rather change *is* history. If *isothymia* cannot sustain liberal domestic life – and remember that this is Fukuyama’s primary concern in the second half of *The End of History*, one that he has difficulty overcoming – it is hard to see how it can maintain the democratic peace over time. For if *isothymia* does not satisfy the souls of charismatic leaders (in Weber’s sense of that term) with power and skill in liberal states, they are likely to engage in policies that are morally dubious and destructive at home and abroad.

Empirically, neither liberals nor realists expect the peace thesis to fail among consolidated liberal states any time soon. But as the world learned in the 1930s, democracies can go “backwards.” Even if the kinds of changes that would need to take place in order for the thesis to fail come only gradually, or even if a 1930s-level shock to the liberal political and economic order is not likely to occur any time soon, one must remember that international relations is a field in which 100 years is an eternity. How much more quickly will history move, given the level of interaction at the global level made available by new technology? Neoliberals have little problem seeing the dangers of *megalothymia* at the domestic level; yet somehow the international consequences of these tendencies escape their notice. The combination of the level of hubris only righteous indignation can bring with

power in liberal states makes this possibility even more likely. As Oscar Wilde noted, sometimes the only way to deal with temptation is to yield to it.

It is in the normative dimension, however, that the teleological component of the peace thesis becomes clear. Even the use of the term “backwards” implies a normative assumptions regarding the proper end of history. Despite Fukuyama’s doubts about his original thesis,²³ he is right to say that all universal histories, secular or sacred, posit an end to history of some kind. The affinity of many secular realists for cyclical cosmologies (particularly Hellenic) is antithetical to direction in history, a point utterly consistent with the *Kulturpessimismus* of realist thought. What is less obvious, as I have tried to show, is the way much of liberal thought has been affected by this pessimism as well. Zacher and Matthew are certainly correct in their assessment that many liberals do not posit any kind of teleological notion. Nor should they, if by teleology we mean a state in which individuals realize perfect freedom and perfect harmony. Yet those constraints ought not to prevent liberals from asserting that there is progress and directionality in history, implying direction towards something. The commonwealth or covenantal community, for example, is an ideal that has been and can be achieved in human history. Too many liberals, who claim to be ateleological, assert their own teleology of perfection as perfect autonomy; the end of history somehow combines personal sovereignty and autonomy with liberal goals of justice and equality. Given its uniqueness in history, and the acute sense of limits that would have to exist to bring about the late liberal state, this seems to be a highly teleological assertion.

Interests narrowly defined do not automatically lead to solutions to collective action problems. Shared values, upon which any good society is constructed, must be carefully cultivated. Nature does not guarantee federal liberty; it guarantees natural liberty that is a poor substitute.²⁴ Institutional improvements founded upon shared values, even by those who seek to constitute the good civil order in good faith, are not automatic either. Kissinger’s abhorrence of Kant’s determinism in history is well founded. The struggle toward sustainable moral polities has been tremendous, woefully incomplete, and not at all assured by elusive historical forces. The first step towards the covenantal polity is humility, the willingness to limit one’s own power. In that sense, the very foundation of good politics, domestic or international, and, ironically, of good science, rests upon a habituated moral choice.

Neither politics nor law can ever be a value-free pursuit. They both contain ethical dimensions, and it is doubtful whether any of these pursuits can survive without some kind of belief in the transcendent. Fukuyama, like most modernization theorists and most liberals, takes the continuance of science, technology, law, and other aspects of modernity, for granted. He believes, for example, that science as an ongoing project can never disappear.²⁵ His argument is countered by the evidence that science has risen and fallen before when its metaphysical and epistemic foundations were

insecure. In the same way, justice must be cultivated and maintained. Its survival is not automatic. Harold Berman has argued that the permanence of law, domestic or international, is impossible to secure without transcendent moorings.²⁶ The current direction of jurisprudence into epistemic chaos suggests he is correct. The future without transcendence is not a utopia of rational beings living the good life; it is the dystopia of H. G. Wells' *Time Machine*, with its dark Nietzschean undertones.

But what is the teleology of a liberal theory reconstructed along covenantal lines? If the commonwealth or covenantal paradigm balances interests and transcendent moral goods, what are the substantive elements of those goods? In order to grasp the substantive elements of federal liberty, one need not reconstruct ethics from the ground up but rather examine the ideals expressed by extant ethical formulations. Again, MacIntyre is quite useful on this point. His more recent work *Dependent Rational Animals* unites all three of these premises regarding epistemology, ethics, and ends.

As I noted above, in *After Virtue* MacIntyre argued that in the present age, we must choose between the metonymies of Nietzsche and Aristotle, between the view that ethics are constructed without a view to universal goods, or toward a view that brings us back to our common interests in achieving virtue. In *Dependent Rational Animals*, MacIntyre finds another reason to choose Aristotle, one he deliberately avoided in *After Virtue*: biology and biological vulnerability in particular. MacIntyre reminds his readers that morally autonomous individuals are able to make meaningful decisions because others within families and communities made sacrifices on their behalf. The liberal individual is not, in fact, autonomous, but dependent from the beginning of life. The *telos* then of the individual is to flourish; yet the means by which that takes place can only occur in community. In other words, it is this very dependency that serves as the basis for the ethic of community, the end of which is the creation of an individual in community who can contribute to the same process that allowed him or her to flourish. The virtues required to carry out the practices within a tradition are diverse; however, dependency is a universal characteristic of the species. As a result, in order to survive, all traditions must account for this fact and incorporate some method of protecting individuals in various states of dependence. They must also educate them. MacIntyre contends that part of the contribution to community involves participating in the process of reasoning with others since "Humans at times cannot flourish without arguing with others and learning from them about human flourishing."²⁷ The process of developing the ability to reason effectively requires more than education understood in the conventional sense; it also requires the virtue of being able to choose not to follow one's desires when doing so would be imprudent, i.e. the virtue of temperance.²⁸ If this is the case, and I think that it is, then whether or not a society affords an individual the ability to develop into an independent practical reasoner becomes a criterion by which it can be judged. There are other virtues necessary to sustain our ability to flourish

and to sustain the very communities upon which we are dependent: MacIntyre, for example, mentions courage, justice, and amiability.²⁹ But once we have achieved the ability to reason independently, and once the virtues have become matters of habit for us, we face another collective action dilemma: why should we continue to contribute to community? MacIntyre's answer is simple: intellectual and moral error. Due to intellectual and moral imperfections, we never become perfect reasoners. "For both types of mistakes," he concludes, "the best protections are friendship and collegiality."³⁰

It is at this point that the value of covenant, as I have discussed it here, becomes more apparent. Covenants provide a way to mediate between reason and the dangers of concentrated power. Covenantal ontology recognizes our status as mutually dependent actors who ought to contribute to the good of the community upon which we are, and will continue to be, dependent. Because the ability to reason effectively is necessary for flourishing, understood phenomenologically, and perhaps survival, and is a central part of that contribution, the cultivation of the virtues at the individual and collective level is necessary as well. As MacIntyre notes, reasoning well is also part of a dialectical process of reasoning within a community; our propensity to err means that there are great benefits to be gained from enlarging our sphere of community. If we expand our understanding of dialogue to incorporate other forms of interaction, particularly trade and security, the level of potential benefits increase as the sphere of what we recognize to be our community increases.

At the same time, the realism of covenantal thought requires that we take into account two significant limitations on our ability to expand the sphere of community indefinitely. First is the communitarian consideration, one that MacIntyre is keenly aware of. Our sense of obligation to our community appears to decrease as the sphere of community expands. Second, groups and populations are just as capable of error as individuals. Communities are fundamentally political entities that are capable of coercion, and as Niebuhr recognized, group behavior can be extraordinarily dangerous, erratic, and lethal. There is no shortage of historical examples of the tyrannies of virtue and collective or majoritarian despotisms. Liberal imperialism itself was the result of a combination of moral blindness, hubris, and domination exercised ostensibly for the good of others.

Within and between communities, then, there must be limits on the ability to compel others to behave as we think they ought. The explicit nature of covenants as agreements made freely between parties is one way of accomplishing that. The development of federal or confederal institutions is another. What these interlocking agreements have allowed populations to do is to maximize the range of discourse without losing their internal integrity.

More specifically, the covenantal model emphasizes the importance of covenants already in existence. There will always be disagreement regarding specific passages of such documents. However, they do point to an emerging global consensus that certain policies and rights (both procedural and sub-

stantive) move us toward a covenantal ideal, even if we are not capable of fulfilling them immediately. By their very nature, the documents that make up the International Bill of Human Rights normatively limit the power of states to engage in aggression toward their own citizens and toward other states. Additionally, the documents that operationalize these rights are legal, and profoundly moral, covenants. The *Universal Declaration of Human Rights* (1948), the *International Covenant on Civil and Political Rights* (1966), and the *International Covenant on Economic, Social and Cultural Rights* (1966), all contain essential moral principles that serve as the underlying basis for a substantive political ethic.³¹ The *Universal Declaration*, for example, speaks of the dignity of human beings, and the right to life, freedom, and equity. It prohibits arbitrary interference with one's privacy, family, home, correspondence, freedom of movement, emigration, rights to property, freedom of thought, religion, conscience, assembly, association, education, and adequate living standards.

Holding that rights derive from the inherent dignity of the human person, the *International Covenant on Civil and Political Rights* (ICCPR) prohibits slavery, arbitrary arrest and detention, imprisonment for debt, and *ex post facto* applications of law. It also guarantees many of the same rights as the *Universal Declaration*.³² The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) is more controversial because it includes the provision of positive rights, goods not considered rights by some contractually oriented liberal states. It protects equal rights of both genders to the enjoyment of all "economic, social and cultural rights."³³ It guarantees the right of everyone to choose his or her means of subsistence, to fair and healthy working conditions, to join unions, to have social insurance, and to special protections for the family designed to protect it from the vagaries of the state and market.³⁴

It is not possible or necessary to list here all the provisions of these documents. What is clear is that they reflect certain assumptions about limits on state power and about public goods as political and ethical goals, a fact revealed by the moral tone of their provisions. As this work has shown, the ideal of human dignity is not obvious to pure rationality in the Kantian sense. There is a wide chasm between the procedural requirements of categorical logic and the substantive imperative of treating people as ends. In reality, this substantive imperative is founded upon a moral perspective closely tied to consequential goods. Apart from this perspective, these rights make little sense. Nor are they consistent with the idea of absolute autonomy, either of individuals or states, as they require commitment to a particular moral order, one in which our ability to develop into the morally autonomous individuals so prized by liberalism depends upon the commitment of others to our own good. They require states, and the individuals within them, to adhere to federal liberty, not natural liberty.

Ultimately, the covenants' importance is found in the way that they provide a specific extant baseline for what Sen and Nussbaum have termed "capabilities."³⁵ There is significant overlap between the rights orientation of

social contract theory and capability theory; indeed, in Nussbaum's view, capabilities include the substance of both first (political) and second (social and economic) generation rights found in the covenants.³⁶ Capability theory differs from rights discourse, however, in that it avoids questions regarding the basis of rights and the arguments over positive v. negative rights. Whereas rights talk,³⁷ to use Mary Ann Glendon's term, may focus on the latter, capabilities by nature require inclusion of both.

Sen has described his view of capabilities as "the substantive freedoms . . . to choose a life one has reason to value" as distinguished from a narrower focus on income.³⁸ For example, a woman might have a high income or a sufficient set of goods necessary for survival; yet a lack of access to education or patriarchal legal system would significantly inhibit her freedom nonetheless. With regard to specific goals, Sen believes that creating a baseline list of capabilities is too limiting on communities which are better able to judge how to apply them in practice. Instead, what creates a limit on the range of state action is the requirement for liberty as both an inherent end in itself and an instrumental end to developing and expressing capabilities. In turn, states ought to provide a basic set of services that allows individuals to use their freedom in a meaningful way. In this sense, Sen's argument resembles MacIntyre's dependency approach.

Nussbaum's conception of capabilities also contains both formal and substantive components. But she disagrees with Sen's concerns about creating a list of entitlements. On the contrary, she believes that some specific set of capabilities is necessary and that Sen provides "no sense of what a minimum level of capability for a just society might be."³⁹ Her disagreement with Sen comes remarkably close to the concerns of covenantal thinkers cited previously like Moore and Elazar, regarding exclusion and federal v. natural liberty respectively. Sen's view of freedom is too broad, Nussbaum believes, to guarantee the kinds of capabilities she and Sen believe are consistent with well-being, as they both understand that term.⁴⁰ Given the fact that her model is rooted in a view of human dignity that owes its origins to Aristotle and Marx,⁴¹ one should not be surprised that she would recognize the implicit power relations involved in a definition of freedom that lacks specific political content. Her own list of entitlements includes life, health, bodily integrity, and affiliation, among others. Her categories are quite consistent with the more specific provisions found in the international covenants and make them good candidates for serving as at least a part of the basis for global ethical objectives. Indeed, Nussbaum writes that the institutional structure at the global level should be guided by "international agreements in many areas such as human rights, labour, and environment."⁴²

While Nussbaum believes there is a role for non-governmental organizations and even multinational corporations in a just world order, she argues that all such organizations should be assigned responsibilities for promoting capabilities in the nations in which they operate. This is no minor point. Certainly the governments controlling authoritarian state hierarchies in the

Cold War period (both right and left) were not particularly inclusive or concerned with expanding capabilities in a broad sense. However, the reordering of the world economy that followed the fall of many of these governments involved international actors such as the International Monetary Fund, the World Bank, and a plethora of economic advisors who contributed to the diminution of state capabilities to deal with the simultaneous crises of boundaries, political structure, and economic systems, a combination Claus Offe refers to as the “triple transition.” Proponents of the Washington Consensus ignored, or at best deemphasized, the fact that “[T]he introduction of a market economy in the post-socialist societies is a ‘political’ project which has prospects of success only if it rests on a strong democratic legitimation.”⁴³ Yet privatization policies had mixed results at best. In some cases, the results were catastrophic. Far from increasing the legitimacy of the new social orders as neoliberals had hoped, these policies only served to alert the beneficiaries of the new global system that they would face exclusion once again.

Second, the neoliberal emphasis on aggregate GDP growth, rather than a more comprehensive objective of socioeconomic development, has had pernicious effects. As Sen notes, growth (accompanied by higher income inequality) is a vague indicator of well-being.⁴⁴ In contrast, covenantal well-being would include a wider array of factors including equity and access to public goods (which were disappearing both materially and conceptually in the immediate aftermath of the Cold War); however, such measures did not fit well within the neoliberal framework. Nor did the idea of strengthening state capabilities, given the view that state power itself was the cause of underdevelopment. As John Harriss has noted, terms like civil society and trust came to be understood in specific ways related to the depoliticization of development.⁴⁵ Civil society viewed in this way becomes private action creating, and thus controlling, public goods, as opposed to a realm for public action within which demands for equity can be organized, a point I shall return to on p. 183.

The disagreement over baseline provisions highlights one reason why it is not possible simply to rely upon the specifics of international law as the basis of covenantal ethics. One could reasonably wonder why, with such covenants as the ICCPR or the ICESCR in place, any discussion of capabilities is necessary. Yet I would argue that as law, these covenants are no more helpful than Kantian moral categories. Instead, as Nussbaum argues, rights should be seen as providing support for or protection of capabilities.⁴⁶ The very existence of the covenants and the degree of consensus behind them provide some measure by which states can be judged and through which states can appeal to commitments made by others. This was one of the great benefits of the Helsinki Accords, for example. They were not particularly easy to enforce; but as the basis for moral-political discourse, they were more effective, even in the midst of the Cold War, a conflict that was to a large extent about the legitimacy of different ways of life. Broad-based legal

covenants provide the basis for discourse between cultural traditions and can help widen the gap between relativity and relativism. Liberal international jurisprudence was the result of contingent historical developments, which in some aspects had their origins in oppression and moral blindness. Once the mask of neutrality has been pulled away, and law is revealed as the expression of tradition with a specific and contingent teleology, it then becomes possible for genuinely ethical discourse to begin.

Premise 4: Prudence requires that even though the ends of policy may be rational, the means of carrying it out must be rational as well.

As Fukuyama has implicitly conceded, there is nothing “unreal” about realism.⁴⁷ On the contrary, realism lies at the foundations of all successful attempts to develop sustainable liberal societies. It is a key characteristic of covenantal thought. The need for prudence arises not from complete skepticism about the existence of moral goods, however, but rather our dependence on one another to understand their nature and how to secure them. Whether we call it the propensity to err, evil, or the *animus dominandi*, the tendency toward the will to power, toward the desire of humans to remake the world in their own image, is a common characteristic of persons in all social orders.

Covenants and rational choices

Liberalism provided important insights into the effects and implications of these propensities in two key areas: economic development and the construction of regimes. Economically, liberals recognized the collective value of individuals pursuing their self-interests. The incorporation of interests into political economy represented an important and necessary break with religious traditions that created obstacles to the pursuit of interests. More recently, it has been ideology that has hindered the pursuit of interests. China attempted to develop through utopian and altruistic means, and millions died. The implicit emphasis on interests in the state’s philosophy of development after 1978 has had a very different effect, lifting millions out of poverty.

I do not want to make an essentialist argument regarding human nature, per se. However, it does appear that there are strong biological and cultural factors leading individuals and groups to defend and expand their access to resources. It may be possible at some point to alter this historical pattern, but as Fukuyama (and Marx) suggest, that is not likely to occur until political communities have reached a much higher level of economic development. I would concur with Freud that it is quite unlikely that the end of history will ensue even then. Whatever the case, the realism that exists within the covenantal paradigm suggests that reciprocal altruism is the best that can be hoped for in any system of political economy, and that properly regulated, the pursuit of interests can indeed have a beneficent collective

effect. As I argued previously, the liberals' mistake was in assuming that there would be a natural consonance between individual and collective goods, and that economics could to a large extent replace the role of politics in providing for public goods. Experience shows this to be a utopian aspiration as well. In contrast, covenantalism does not categorically require the sacrifice of self-interest. *Instead, it requires that a stronger or wealthier party be willing to sacrifice short-term gains for long-term mutual advantage, i.e. it requires the stronger party to bear much of the risk in attempting to initiate a reciprocally altruistic relationship.*

Liberals also contributed to the understanding of regimes, particularly the need for a politics of limits, a view I argued had its origins in covenantalism. The tolerance and limitations on state power so prized by Locke and other liberals, whether preserved through a set of rights, federalism, subsidiarity (Catholic in origin, federal in practice), separation of church and state, or other means, are themselves a reflection of the need to limit and share power in the light of our fallibility. Here again, the problem lies in praxis, not theory, particularly with regard to international relations.

There have been and continue to be any number of theories of political communication that have attempted to deal with conflict through pedagogical means, assuming that the problem is not evil intent but rather miscommunication and misunderstanding. As was the case for Plato, in this view knowing the good should lead to doing the good. Thus, the response to the problem of evil has been to emphasize the value of communication, tolerance, and openness among actors. Lorenzo Simpson's situated cosmopolitan model alters the communicative action model developed by Habermas by adding an element of "mutual understanding."⁴⁸ This involves taking seriously the views of others, putting the best possible face on them, and assuming the best possible motives are at work, even if we disagree vehemently with their substance. Certainly, following this prescription would greatly reduce the level of conflict in the world.

Yet it is hard to imagine that these qualities will arise either spontaneously or even by choice in the midst of the kinds of serious conflicts that exist at both the intrastate and interstate levels, at least to the degree necessary to achieve a lasting peace. Toni Erskine recognizes that this problem exists even in her own theory of embedded cosmopolitanism that incorporates "dislocated communities," meaning civil society groups with shared values which transcend state boundaries. For example, despite their best intentions, her embedded cosmopolitan organizations may not be able to overcome moral apathy.⁴⁹ There is also the possibility that at the aggregate level dislocated communities may be incompatible. Can we know for certain that such communities will all be amenable to acting morally? Achieving peace undoubtedly means communicating the value of tolerance, but the covenantal response is to rely upon "auxiliary precautions" as well, to borrow a phrase from James Madison. It means relying upon the politics of limits inherent in the concept of federalism.

Covenantalism as a federal politics of scale

Federalism is often viewed as a means of weakening the state, and a federal institutional model by itself, with no substantive components, could do just that. In contrast, covenantal thought views federal systems as a means of increasing capabilities by localizing administration of more universal goals to the greatest degree possible. However, to misappropriate Edward Albee, sometimes it is necessary to go a long way to come back a short distance correctly. Strengthening local governance may actually require recentralization of some powers to increase accountability and equity. Forms of federalism that seek to strengthen communitarian localism and regional autonomy as ends in themselves may generate a more participatory democratic system; they may also lead to violence or the dissolution of the states altogether. Though Michael Hechter believes that decentralization is generally a useful means of containing nationalism, he notes that in some instances “federation may provide both material and cognitive supports for nationalist conflict.”⁵⁰ Some forms of federal arrangements may not be capable of protecting peoples from the extraordinary asymmetry of power relations that results from globalization or that can occur in multinational states.⁵¹ As Steven Solnick puts it, one finds many instances in which “the set of desirable institutional models may be quite different from the set of attainable institutional equilibria.”⁵² Institution building and revision are processes requiring strategic vision, but also tactical sensitivity. Simply arguing for the weakening of the state in favor of international organizations without closer examination of particular contexts is also problematic. Pushing power upward and downward simultaneously is likely to result in a more, rather than less, exclusivist system of governance.

Elazar lists four aspects of the covenantal vision that highlight its attention to both cosmopolitan and communitarian concerns, and reveal the layered levels of institutions inherent in his model of global governance.

- 1 A society of individuals (people, families and communities) who are freely bound to each other and to the moral order by covenant ... based on federal liberty.
- 2 A world community of substantially self-governing nations composed of substantially self-governing communities bound by interlocking covenants. Political covenants that encourage partnership, cooperation, and forbearance among nations and communities to allow each to act correctly by its own choice and will.
- 3 A constant search for individual and social integrities in each nation and a constant striving for *hesed* [the well-being of the other].
- 4 Ultimately a world-wide covenant society of individuals, communities, and nations but not a world-state based on a single universal society.⁵³

One might call the covenantal multi-layered approach a kind of “politics of scale” in the geographic rather than economic sense of that term, in which

integrated and mutually supportive institutions are arranged to maximize the efficacy of public action as well as the management of global economic forces for public benefit. For Engel, "The model of global governance is therefore global federalism or 'cosmopolitan/regionalism'; pacts are built upon pacts from the ground up; each society's power is both limited and shared with every other society."⁵⁴ Yet, because of the potential for monopolization of power, Elazar rejects the call for a world-state, a response arising from the realist component of covenantal thought.

Federalism is designed to place centralized goals before a people or collection of peoples, while allowing them significant freedom to achieve those goals as they see fit. Not only does federalism provide space for civil society, including global civil society, to grow; it does so by limiting the power of the centralized state and ideally shifting a degree of power to local and regional political actors. However, federal principles also emphasize individuals' dual citizenship, which includes protections *from* local governments as well. As Tocqueville noted in *Democracy in America*, there is a vast difference between centralization of administration and the centralization of governance. Whereas the former involves all or almost all political decisions being made by the national government, the latter consists of government that is energetic (in a Hamiltonian sense) in its proper jurisdiction. In the EU model, for example, all EU citizens have certain rights enforceable by the European Commission and the European courts, which are in the process of creating a continent-wide power of judicial review. But (ideally), in accordance with the principle of subsidiarity, states within the EU are to be allowed to fulfill their agreements with a great deal of freedom. The neoliberal model of civil society and its accompanying prescription of a shrinking state is concerned with the maximization of negative liberty; in contrast, the covenantal state seeks to maximize capabilities. As such the configuration of state power is contingent, requiring a prudential analysis as to which configuration is most likely to achieve these ends at any given point and an understanding that this configuration may need to be changed over time to respond to new circumstances.⁵⁵

In the pre-civil rights period of the American South, states argued for a more confederal approach to governance for obvious reasons. However, in order to move toward a more covenantal social order, African-Americans and their allies in the civil rights movement required a space for public action free from the control of their white southern opponents who controlled the levers of power.⁵⁶ Success in this instance required solidarity among civil rights workers engaging in public action. It also required cooperation from national authorities who *recentralized* power in the short-term (somewhat begrudgingly) with the goal of increasing African-American power at the local and regional level over a longer period.

While the goal of procedural (and certainly substantive) equity has not been achieved, many African-Americans have a higher measure of capabilities than they did four decades ago. More recently, Cornel West and

Eddie Glaude, in conjunction with the Jamestown Project at Yale University, have developed the “Covenant curriculum.” The curriculum is designed to operationalize the Covenant with Black America agenda, a movement that seeks to develop more substantive elements of equality for African-Americans. Consistent with a covenantal policy approach, white southerners have also benefited from the greater level of transparency and access to the political process that have resulted from the pursuit of justice. The Covenant curriculum takes note of the broader benefits of these movements, describing this pursuit as “a path of courageous efforts to achieve our country.”⁵⁷ These are first steps in a journey of a thousand miles to be sure; yet these steps, partnering local action with national power, have made southern state governments more accountable than they were in 1960.

Covenantal federalism is designed to achieve a moral purpose rather than maximize individual autonomy. It is also designed to keep institutions accountable by creating multiple levels of governance that can engage in oversight over one another. Drèze and Sen refer to this as a benefit of pluralism.⁵⁸ However, as they point out, even democracies like India or the US have not managed to solve serious poverty and health problems despite having procedurally open systems. Pluralism must have another important component on their view: well-designed democratic institutions must be accompanied by public action. In addition, recent events also remind us that institutional federalism is not by itself sufficient to prevent imprudence in the realm of foreign policy. There may be occasions when the *de jure* balance of power in some areas of statecraft is so one-sided in practice that the virtues of federalism are rendered meaningless. In such instances, public action is likely to be the only initial means of bringing about a comprehensive shift in policy.

Covenant as a participatory community

Drèze and Sen discuss two sides of public action in policy-making, which they refer to as “collaborative” and “adversarial.”⁵⁹ The former involves cooperation with the state in identifying and solving problems, while the latter serves as a method of creating opposition to harmful policies, or in some cases, a complete lack of policy. Their view of the public here bears some similarity to the neoliberal understanding of civil society, in that it would include both the population affected by policy and non-governmental organizations (NGOs). However, there are three key differences. First, they recognize that NGOs can also do great harm, a point I shall address further below. Second, their understanding of the public takes into account the disparities in power between public actors, especially at local levels. This important point is tied directly to the object of their analysis in the book, that of hunger, which disproportionately affects women and the poor in developing societies.⁶⁰ Finally, in accordance with capabilities theory and consistent with the recognition of dependency inherent in covenantalism,

the object of public action is to protect and promote social security, defined as the use of social means to prevent deprivation and vulnerability.⁶¹

Sen notes that democracy creates opportunities for public action; it does not guarantee it. "With what strength such opportunities are seized depends on a variety of factors, including the vigor of multiparty politics as well as the dynamism of moral arguments and value-formation."⁶² The role of activism is key, even in non-democratic societies. Such was the case in pre-democratic Chile and South Korea, he argues, when "the vigor and persistence of opposition" to ruling parties led to constructive change and eventually democratization.⁶³

To some extent the ability of the public to seize opportunities to engage in public action, even within advanced democracies, depends as well on the ability of leaders to overcome a characteristic of modernity I have discussed previously: the alienation that results from the rise of the expert and the manager. The growing chasm between political leaders and other elites on one side and the general population on the other is one of the most serious dangers democracies face at present, one exacerbated by the economic changes that have occurred over the last two decades. Moreover, the moral legitimacy attached to policies or economic outcomes reached within democratic capitalist systems is, in the eyes of these elites, qualitatively different from outcomes in any other system. As a result, while liberal societies are not alone in facing this challenge, they are more susceptible to the problem of moral blindness that is one of its most pernicious effects.

Antonio Gramsci was also concerned about the alienating effects of modernity on participatory politics. Of course, his desire was to increase the level of mobilization of workers in order to counter the power of the fascists. But his observations are quite relevant to this present discussion for two reasons. First, Gramsci recognized that politics requires a synthesis of intellect and passion. Liberals are quite adept at critiquing the lack of public access to political institutions in authoritarian regimes. However, the specialization required to run the modern state creates mass-expert alienation in all regime types, including liberal democracies. In her discussion of the role of intellectuals in Gramsci's thought, Anne Shadowstack Sasson notes that at the end of the twentieth century:

[C]ritics of the instrumentalisation of Enlightenment reason to legitimate the activities of a paternalistic and at times a highly repressive state challenge the idea that state intervention directed by an élite of intellectuals results in providing beneficently for the universal general interest. Whether as described in the writings of Hegel or followers like Croce, or in those of John Stuart Mill and the Fabians, or expressed in the policies of Roosevelt's New Deal and Scandinavian and other post-Second World War reformist projects, an ethical, modernising role for the state and public policy influenced by the knowledge of experts is widely questioned at the end of the century.⁶⁴

She observes that this division between the people and the experts already existed in Gramsci's time. Gramsci understood that successful transformation of the polity would require transformation of the culture, which was the source of hegemonic control of the dominant class based on consent. In order to change the culture, one would have to understand it from within; thus his use of the term "organic" for intellectuals capable of uniting ethnography and class analysis.

Gramsci was fascinated with popular culture and its epistemic effects. Most people were not reading literature as high art: rather, as Renate Holub notes, "What people read instead were serial novels, trivial literature, popular novels, detective novels, and a lot of kitsch."⁶⁵ The artifacts of popular culture are themselves instruments of hegemonic power and can be used to limit the range of options before we even begin to understand the nature of the problems we face. Like Robert Michels, Gramsci understood both the dual dilemmas of specialization and bureaucratization in the modern period, phenomena from which socialism was not exempt. His solution was to create a new role for intellectuals who would mediate between people and state. Of course, they could only do so if they genuinely came from the ranks of the people, and could therefore speak from them and for them, something which he understood would create significant tensions.⁶⁶

The increasingly homogenous governing classes drawn from political and civil society sectors represent but a tiny portion of elites who do not speak the cultural language of those in whose name they govern. This is only likely to widen the distance between governed and governors, making it more difficult to gain support for solving collective action problems with anything more than marginal level of commitment.⁶⁷ Ironically, this is a problem likely to grow worse as states democratize, not better. One can be bewildered at the foolishness of the ignorant masses and write diatribes against their habits of choosing not to pursue their interests; however, doing so is not likely to win them over. In fact, it is likely to drive them further toward reactionary expressions of modernism.⁶⁸ For Gramsci, the ability to incorporate popular passions into politics was literally a matter of life and death. The left had to engage the culture in order for its political program to succeed. This continues to be a timely insight for parties at both ends of the ideological spectrum: at present, the gap between right and left is largely cultural in nature, and it is rapidly widening.

The second reason why Gramsci's observations are relevant to this discussion is that his understanding of the difference between the coercive and consensual realms of power, in the state and civil society respectively, raises questions about the way civil society should be viewed. Contemporary liberalism has appropriated an apolitical view of civil society, when in fact it is a highly contentious and politicized realm. For example, liberals are quite sanguine about the power of NGOs in global governance. Yet given the critical role of civil society organizations in liberal theory, more attention needs to be paid to the misappropriation of the liberal domestic society model of

state–civil society interactions and its application to the international level, where there is no state to engage in oversight over their activities. Some civil society actors (in Gramsci's sense), whether economic or social, may have an inordinate amount of influence over global governance, influence that is not likely to reflect the interests of the powerless. One wonders, for example, what Gramsci would have made of Davos.

The role of civil society in covenantal politics

Covenantal theory blurs the lines considerably between the state and civil society. Civil society serves as the space within which the public can organize relationships that can then affect state practice. In addition, the market is not viewed as an autonomous force, but a sphere of activity in which economic actors have responsibilities to the community. Unlike Thomas Friedman's social networks that regulate the global market indirectly through consumer pressure,⁶⁹ the covenantal framework does not draw such fine lines. Economic actors are also political actors who affect their communities and states. Civil society according to this view is a politically charged sphere of activity, not simply a realm for the expression of private concerns.⁷⁰

The covenantal model of public action, then, is distinct from notions of civil society that emphasize private activity unrelated to the political. As Elazar's work on domestic US political cultures reveals, all understandings of civil society implicitly contain political components. A view of the role of individuals as market actors and consumers leads to an individualistic state. Politics takes on a "business-like" quality; the state responds only to the most salient of public issues that demand a response from an occasionally aroused public. A view of the role of individuals as private actors in some apolitical, non-market, civil society realm leads to a traditionalistic, almost neo-feudal, political culture. In contrast, the covenantal commonwealth involves, indeed requires, a great deal of room for dynamic, vigorous non-political private activity, but also views civil society as a highly politicized realm of public action.⁷¹

Tocqueville's admonishments for democratic states resonate as deeply at the international level as they do for domestic politics. A vicious cycle exists between increasing isolationist individualism and enervating bureaucratic centralization. Individualism is not just a pathology of individuals. Isolationism is the international equivalent of domestic self-absorption and can lead to similar consequences for international politics. Civic engagement by international actors of all kinds, liberal states, NGOs, and intergovernmental organizations, is absolutely necessary. Without it, the temptation to solve crises – which always occur in the vacuum left by a lack of leadership and sacrifice – with administratively centralized institutions like a world-state will be enormous.

Pre-liberal covenantal ontology included the belief that individuals operated within multiple spheres of public and private activity, e.g. church,

community (at several levels), home, and market, and that identity was intimately connected to each of these spheres. At the same time, each person had the potential to become wholly integrated by pursuing the good in each of these spheres, each of which had its own specific virtues. The habits of interaction within the bounds of ordered liberty were not compartmentalized or privatized; they had beneficent effects upon the state as well.

Civil society plays a similar role today insofar as it prevents the occurrence of the Weberian nightmare in liberal states. At the international level, associations can play an important role in exposing and critiquing illicit state practices of all kinds. Martin Shaw, for example, believes that civil society played a central role in bringing about the demise of the Soviet bloc, going so far as to argue, "One of the most fundamental reasons for the crisis of the Soviet system and the 'triumph' of the West was clearly the much greater impact of society on western states, compared to the apparent insulation of the Stalinist regime from societal influences."⁷² In addition, international institutions like the Catholic Church served as a means of organizing social forces that overthrew Eastern European regimes and are, in the post-Cold War period, centers for organizing civil society.

As I noted above, Weber believed that only a fresh infusion of the arational charismatic could prevent the total hegemony of bureaucratic-rationality. Because of the nature of his beliefs about rationality, he could not envision how the charismatic and the rational could be synthesized. Weber tried to integrate charisma into political institutions through powerful and popularly elected political leadership. I have reformulated Weber's position to show why this approach is incorrect. If liberalism and research on the role of civil society have shown anything, it is the need to secure a place for the charismatic (to use Weber's terms) in the non-governmental realm. Charisma does not only appear within markets, i.e. entrepreneurial capitalism. Those who are "gifted" (the Greek meaning of *charisma*) are found everywhere in all aspects of social endeavor. Organizations that can take advantage of these gifts, as they are turned towards the international sphere, serve as powerful means of undermining hierarchy in liberal and illiberal states. They can provide the voice of democracy and human rights. The accountability provided by their observations contributes to the sustainability of liberal states and, one hopes, a movement toward liberalism by those that are illiberal.

Liberal international theory has placed a great deal of hope in the emergence of a global civil society that can increase the networks between NGOs. Organizations like Freedom House, Amnesty International, and Human Rights Watch examine state practices in liberal and illiberal states and point out acts that violate human decency. Because they rarely have direct coercive power, their legitimacy most often resides in the degree to which their moral perspectives are shared by others. Yet they have had great success in embarrassing states year after year through public dissemination of information. Their messages cross state lines and cannot be silenced, because of their transnational character.

Elazar is sanguine about the role of civil society and its role in reviving covenantal politics. The demise of hierarchy after the disastrous political experiments with centralized administration has led to a new possibility for reorganizing domestic and global politics in covenantal terms.⁷³ Only in a federal system can the “constituting elements . . . share in the processes of common policymaking and administration by right, while the activities of the common government are conducted in such a way as to maintain their respective integrities.”⁷⁴ Yet federal structuration is not enough. There can be no *brit shalom* (covenant of peace) without *besed* (covenantal obligations rooted in the desire for the well-being of others). As critical legal theorists point out, liberalism without a material base of justice is empty and self-contradictory. Covenantal obligations imply concern over both material conditions *and* due process. Nations and peoples must learn, over time, to adhere to a federal conception of liberty in conjunction with federally constructed institutions. This requires an enlightened view of self-interest and national interest. Civil society has an increasingly important role in defining those interests.

Civil society: social capital or public action?

Neoliberal theory is not opposed to the notion of civil society; in fact, civil society is at the heart of neoliberal critique of the state. Nowhere is this clearer than in the use of the term “social capital.” In this section, I will discuss and then critique some of the uses of this term. However, I also want to argue that despite its flaws, the study of factors that aid in developing sociopolitical networks is useful in that it can provide cumulative knowledge about how to facilitate the capacity for public action. Martha Nussbaum writes that “Philosophy is good at normative reasoning and at laying out general structures of thought. In a rapidly changing world, however, any very concrete prescriptions for implementation need to be made in partnership with other disciplines.”⁷⁵ I believe that the ongoing research into social capital can help in the development of such prescriptions.

There is a truly bewildering array of social capital theories, from Pierre Bourdieu’s, who sees the use of symbolism as a means of developing or maintaining power in social fields,⁷⁶ to Francis Fukuyama’s, for whom social capital is consonant with private action occurring within civil society.⁷⁷ For example, in his book *Trust*, Fukuyama argues that social capital is “created and transmitted through cultural mechanisms like religion, tradition, or historical habit.”⁷⁸ Robert Putnam applies the term social capital to the particular elements of civil society theory he believes to be critical to the health of the liberal polity.⁷⁹ He defines social capital as “features of social organizations, such as trust, norms, and networks that can improve the efficiency of society by facilitating coordinated action.”⁸⁰ Putnam has arguably contributed more than any other figure to the rise of social capital as a variable of analysis. This is true for two reasons. First, for all of its flaws, his

extraordinary study of Italy laid the foundations for further quantitative work in the study of civil society. Second, Putnam has welcomed and even encouraged criticism of his own work in order to further the process of refining the conceptually complex elements of social capital.

There have been numerous critiques of Putnam's version of social capital theory. Some have concerns about the historical narrative he presents to explain the role of path-dependent variables in his study of Italy, the measures used in his study of declining social capital in the US, the hidden costs of claims to social capital within societies, and the disassociation of social capital from its role *qua* capital, i.e. as an expression of economic power.⁸¹ Others focus on the diverse ways in which Putnam utilizes the term social capital, relying upon it as both a dependent and an independent variable related to civic engagement.⁸²

There are (at a minimum) two further dimensions of social capital analysis that proved troubling in the early literature. Social capital appears to have a dark side, one alluded to by Janet Moore's concern about the ideology of groups. Some forms of "cognitive capital" (attitudinal as opposed to structural) appeared more conducive to developing adherence to beneficent norms than others. It was not always easy to identify which forms were helpful and which were not. To deal with this issue, Putnam has more recently relied upon the terms bridging and bonding to distinguish between forms of social capital that provide greater tolerance and social cohesion and those that may lead to social fragmentation. In his view, bridging social capital involves relationships *between* ethnic, kin, or religious groups as opposed to bonding capital, which refers to relationships *within* such groups. While bridging capital increases resources for reducing conflict, bonding capital may cause such resources to decline.⁸³ Putnam and Kristin Goss explain that "bonding without bridging equals Bosnia."⁸⁴ Similarly, Nat Colletta and Michelle Cullen observe that in Rwanda, where something much like Putnam's bonding capital prevailed, "genocide was a powerful communal-building exercise."⁸⁵ Second, there was a similar problem regarding the relationship between social capital and democracy, an assertion of strong links between the two when the historical evidence for such links was highly questionable. For example, Putnam's highest social capital region in Italy, the north, was also the home of Italian fascism. Fukuyama's model also suffered from this problem. Of the three high social capital states he listed in his study on trust and economics, the US, Germany, and Japan, the latter two became democratic at the point of a gun.⁸⁶ Despite the obvious merits of those outcomes, they hardly provide a model for democratization in general. Events in Iraq serve as a painful reminder of this fact.

Putnam attempted to deal with these critiques in his study of social capital in the US, *Bowling Alone*. For example, he argued there are strong correlations between altruism (certainly an important variable here) measured by philanthropic generosity and social capital.⁸⁷ A population unwilling to engage in altruism on a private level might also be less willing to pay

for public social welfare or environmental programs in the form of higher taxation.⁸⁸ High social capital states also had the lowest levels of tax evasion.⁸⁹ Putnam is not alone in making such connections. Stephen Knowles has found a positive correlation between a state's social capital and its propensity to provide foreign aid.⁹⁰ Yet even with these attempts at refining the concept, the studies done in this area at times appear to be a tangled web of intercorrelations that leave lines between civil society and politics unclear and thus are not always helpful in terms of contributing to our understanding of political *change*.⁹¹

Depoliticizing civil society: from Dickens to Darcy

Other critiques of social capital are abundant,⁹² and I will not review them further here; rather, I want to focus on the way social capital theory as used by many of its adherents depoliticizes what Elazar refers to as the public non-governmental realm. At first glance, there appears to be a great deal of overlap between Elazar's study of political culture in the US and Putnam's findings. The map of commonwealth (i.e. covenantal) regions, New England and the Upper Midwest, neither of which is particularly attracted to libertarian models of political economy, correlates very closely with Putnam's high social capital regions in the US. Both point to the South as the most challenged region. Elazar finds the traditionalist, neo-feudal approach to politics concentrated there, while Putnam finds low levels of social capital and correlations with low levels of state social service provision.

However, Putnam's early views of social capital implicitly emphasized the private, apolitical realm as the source of political change. This emphasis is an example of the general tendency in social capital literature to value Tocqueville in the most un-Tocquevillean of ways, a phenomenon I refer to as the shift from "Dickens to Darcy," or a longing for a return to a pre-capitalist organic social order (aptly described by Jane Austen) in the midst of industrial or post-industrial societies.⁹³ Putnam was not guilty of this to the same degree as others, even in his earlier studies, a fact that becomes clearer in his comparison of north Italy to the more organic and less civic south. Yet there is a harmony of interests model in the background of the Italy study, one that simply does not communicate the sense of political conflict and passion present in Italian life. (It is no coincidence that Elazar explicitly rejects organic models because of the inherent asymmetries of power they contain.)⁹⁴ Putnam's own statistical findings in Italy are instructive on this point. While he does deal with the state as an independent variable in Chapter 2 of his study, the focus is on institutional change. And to be fair, he says very clearly (and in italics) that "institutions shape politics" by structuring political behavior.⁹⁵ Certainly a change that brings decision-making closer to home could be beneficial (though this is contingent); however, states can also change policies that in turn increase participation and active citizenship.

Nowhere is this point made clearer than in Putnam's own example of the effectiveness of governance and quality of life found in Emilia-Romagna, which, he argues, is the best-performing and most effective region in Italy.⁹⁶ As he mentions in passing early on in the book, that region has had multiple left-leaning governments since the end of World War II and is in the middle of Italy's Red Belt. One could reasonably ask whether the number of bird-watching groups, soccer clubs, and choral societies found there is the *result* of a political culture influenced by the norms of the Italian left as well as by the policies of the government of that region. Putnam believes the answer is no, since he finds that party rule does not correlate as highly with performance as social capital.⁹⁷ Yet, as Sen points out, party or ideology alone are not sufficient to effect change. There must also exist an emphasis on public action and creating effective means and opportunities of expressing solidarity. And party ideology may differ on specifics as may the quality of leadership. The Emilia-Romagna case is instructive in all these arenas.

In Emilia-Romagna, regional political leaders recognized the benefits of integrating the regional economy into larger markets and engaging in trade. Support for small business enterprises, many of which were worker-owned, came from local and regional state sectors. Political leaders also emphasized the development of links between citizens' organizations within and between communities. On this point, Ash Amin observes that a "powerful political community . . . helped to inculcate an associationalist culture across the regional elite as well as link that elite to the broader mass of the region's population."⁹⁸

The state played an instrumental role in all these developments by making a commitment to the highest levels of efficiency and service provision. Amin concedes that Putnam's observations regarding civic culture in the region are important. However, civic culture is at best a factor, not the factor, in determining the level of development in Emilia-Romagna, alongside very strategically planned and executed *political* decisions made by regional leaders and intermediary associations.

Putnam concedes that Emilia-Romagna is a possible exception to the party analysis rule. Reflecting on the belief that rule by the Italian Communist Party had something to do with good government in that region, he responds by writing, "Certainly in a descriptive sense, our evidence is consistent with that judgment."⁹⁹ Until a government led by the Communist Party (or now, one supposes, one of its successors) exists in the less civic south, it will not be possible to tell how much the party contributes to good governance in general. However, this finding should raise questions about how party and associative patterns mix. For while the social cohesion one finds in this region looks very much like what Putnam calls bridging social capital, it is the result of a much more complex and much more explicitly political process than Putnam would suggest.

Another case mentioned by Sen, Nussbaum, and a host of others interested in development is Kerala, a province in southwest India. Sen separates

development into “growth-mediated” and “support-led” processes. The former focuses on economic growth and income distribution, a standard element of modernization theory, while the latter emphasizes “skilful social support of health care, education, and other relevant social arrangements.”¹⁰⁰ Sen points out that Kerala’s GNP per capita is quite low, yet because of its strong social support sector, its life expectancy measures are higher than those found in countries with much higher incomes. And despite its low income level, Kerala has had more success in reducing income poverty than any other state in India.¹⁰¹ Here again, one must look closely at recent political history, not culture per se, to understand the source of these achievements. If anything, reforms in Kerala involved a rejection of strong cultural and historical influences. First, for legal and social reasons, a federal structure existed in India, allowing some freedom for states to experiment in terms of development models and priorities. Historically, Kerala’s anti-caste leftist movements sought to maximize popular participation and public action. Members of the movement joined with minority groups, primarily Christian and Muslim, in order to gain representation in the state legislature. The government elected in 1957 began a movement toward economic and social reforms like land distribution and increases in education provision, and continued to press these reforms during its subsequent administrations.¹⁰² The success of the “Kerala model” was recognized even by the World Bank in that it involved neither planning in the hierarchical “Gosplan” sense of that word or rapid and destabilizing industrialization.¹⁰³ Instead, the high measures of development other than income found in the region were the result of deliberate political choice and public action that added democratic pressures for state actors to make such choices.

However, Kerala also illustrates the *limits* of state-centered development. While the state has responsibilities in helping secure capabilities, it has a responsibility to allow individuals and families to exercise those capabilities to secure their own interests, including their economic interests. Of course, these are not mutually exclusive goals. It is no coincidence that Sen admires Adam Smith along with Marx and Aristotle. As he recognizes, one of the major challenges faced by regions like Kerala is that despite its high level of development, economic growth has slowed and there are fewer opportunities for moving further up the socioeconomic ladder. This has led to an exodus of workers, many of whom have gone abroad to seek higher paying jobs.

Conclusion

Reviving and invigorating private forms of civil society may be a useful objective if it is part of a larger, more comprehensive approach toward facilitating public action. Certainly, social capital enthusiasts have made attempts to accomplish the former. One need only visit the premier social capital online site in the US to see evidence of this. Under the heading “What you can do,” one finds suggestions such as “Avoid gossip,” “Sit on

your stoop,” “Answer surveys when asked,” and most notably, “Buy a big hot tub.”¹⁰⁴ Whether these suggestions will lead to more vigorous public action is uncertain. However, I want to suggest that some research – even that done under the auspices of the World Bank – performed under the rubric of bridging social capital may prove more useful in developing better ways to enhance public action and develop more participatory covenantal forms of polity.¹⁰⁵ Social capital according to this view is similar to Bourdieu’s use of the term (*capital social*) to mean relationships that can help to “construct a new social order. One that . . . will make room for collectives oriented toward the *rational pursuit of ends collectively arrived at and collectively ratified*.”¹⁰⁶ The view that social capital helps solve collective action problems with political dimensions is significantly more oriented toward recognizing the potential for conflict and the need to address political and economic disparities. Many of the concepts used to operationalize bridging in the more recent social capital literature come quite close to the more politically oriented relationships such as Bourdieu’s implied in a public action model.

While covenantal thinkers have not specifically incorporated public action or capabilities theory into their covenantal models, I would argue that doing so can help to operationalize the substantive and procedural components of covenant as well as make its teleological assumptions explicit. Sen and Nussbaum are correct in recognizing the way in which procedure, substance, and instrumental and inherent goods are interwoven in capabilities theory. Capabilities theory draws together the importance not only of the individual found in liberal theory, but also of individuals’ obligations to one another to promote one another’s ability to flourish. In turn, these obligations are secured to a significant degree by state institutions motivated, at least in part, by public demands. At the same time, the realism of covenantal thought, expressed in its emphasis on the politics of scale and federal rather than natural liberty, is consonant with Sen’s focus on the instrumental and inherent benefits of freedom.

As a federal form of cosmopolitanism, covenantalism goes a long way toward reconciling the concerns of cosmopolitan and communitarian theorists. Covenantalism emphasizes local expressions of universal goals, the layering of institutional authority, and the role of both state and citizens in developing and implementing policy. These aspects of covenant incorporate the communitarians’ concern that for empirical and normative reasons, political legitimacy must arise from the ground up. At the same time, covenantalism recognizes that there is a slowly building consensus regarding universal norms and that these norms contain both procedural and substantive components. Further research along these lines can lead to a better understanding of how to encourage the development of transnational and international communities. In addition, it can help illuminate which types of agreements are most likely to facilitate important universal goals such as peace, more participatory systems of governance at all levels, and economic well-being understood in terms of growth *and* distribution.

7 From ethics to policy

A covenantal future

Should international society take a more covenantal turn, what would it look like? How can the interests of civil society, the need for governance, and the problem of combating inhumane policies and behaviors be reconciled at the international level? Policy priorities will always be in a state of flux, and policy-making requires prudence and close attention to context. However, there are a number of general policy categories I focused on in previous chapters, namely economic development, global governance, and armed conflict. In this chapter, I return to these areas to show how the covenantal paradigm provides a firmer theoretical foundation for policy solutions in these areas than contractual liberalism or conventional forms of realism.

As Tocqueville understood, the art of association has profound political implications. Mediating institutions between the individual and the state were, for him, the *sine qua non* of vibrant and effective democracy. That remains true at the international level as well. Civil society organizations, NGOs, media outlets, and the like will remain important actors in facilitating a vibrant system of global governance. However, because of the nature of globalization, the primary mediating institution itself will be the state. In a hierarchical system, this claim would be problematic; in a covenantal/federal system which includes a politics of scale, it is not. For Tocqueville, associations were inherently valuable, but they also played an important political role; their presence or absence determined the difference between effective representation and despotism. In the same way, the role social capital formation and public action play in increasing the effectiveness and representativeness of states is critical, for states will continue to be the primary actors responsible for securing public goods in a covenantal world order. At present, no other actor can play this role; NGOs are not always representative and intergovernmental organizations suffer severely from a democratic deficit problem.

Building state capacity means finding ways to help disparate and often divided groups build relationships that will allow them to have a greater voice in determining their own political destiny. Carefully constructed institutions can certainly help accomplish this. Given that the overwhelming majority of states are multinational, political leaders are faced with the

significant challenge of making the state representative *and* cohesive. As the literature on federalism and state-building shows, creating federalist or consociational institutions (the latter of which Elazar also mentions as a form of covenant), or implementing devolutionary or decentralized models of administration, are not panaceas. There are a number of strategies that can be used to counter the centrifugal forces with which states in transition are faced. For example, in her study of consociational arrangements, Pippa Norris mentions “executive-legislative arrangements including single-party or multi-party coalitional governments, the adoption of parliamentary or presidential systems, and the division of powers between legislative houses, rigid constitutions protecting minority rights and subject to judicial review, and pluralist or corporatist interest-group systems.”¹ Yet even the most wisely constructed institutions will require some initial basis of public support. I also argued in the previous chapter that the civil society emphasis found particularly among early works in the social capital literature deemphasized political variables. In this section, I will discuss how social capital understood in more political terms, as is increasingly the case in more current literature, can help researchers better understand the sources of that support and develop strategies to increase it.

The internal challenge: intrastate violence, public action, and bridging social capital

Neoliberals are correct about one thing: as the world becomes smaller, states will not be able to insulate themselves from the global system. The clock cannot be turned back to the pre-imperial period. Some states have had to enter the global system facing serious disadvantages. The age of colonialism has done its damage, throwing together population groups in ways that have had devastating effects on their development. Increasing the number and strength of covenantal relationships between public and private organizations within federal systems of governance can help to overcome some of the effects of these policies. Indeed, in many cases, this may be the only solution, short of redrawing state borders, that will allow for the level of collective action necessary to navigate the treacherous waters of the post-modern era. In other cases, states are not in great danger of collapse; however, they are seeking ways to strengthen the capacity for public action and increase the effectiveness of representation through devolution. Examples of successful bridging and devolution, particularly in regions affected by severe poverty, ethnonational conflict, gender inequity, or all three, may provide hints as to how states can overcome the challenges of political and economic development.

Strengthening civil society is not the sole answer to these challenges, but it is part of an answer. Yet civil society can also be part of the problem, particularly when civil society organizations serve as a substitute for broadly accessible government institutions. In order to account for this problem, Jan

Aart Scholte has developed a model of civil society that makes more careful distinctions between types of attitudes that aid democratization, both procedural and substantive, and those that do not. The characteristics of “good” civil society are those that involve giving voice to stakeholders in a society; facilitating broad education; helping to fuel the debate about global governance in ways that force policy-makers to consider the benefits and problems of globalization; increasing the public transparency of governance; helping to facilitate democratic governance at the global level, which can only help to strengthen both global law and accountability of governing bodies at all levels; and finally, fostering legitimacy and authority over power.² The language Scholte uses, with its focus on participation, education, and the way that public action can create pressures on policy-makers to manage globalization for the public benefit, brings us closer to an understanding of social capital as a form of capital per se. James DeFilippis, who is critical of Putnam’s more apolitical view of social networks, writes, “We need to create social networks that allow individuals to realize capital, while simultaneously allowing these networks to realize the power needed to attract and control that capital (for the benefit of those in the networks).”³ DeFilippis recommends such policies (in a US context) as the creation of community land trusts and microenterprise lending circles that can facilitate local growth while maintaining the control of capital in the community. As important as this control is for local communities, it is even more important at the state level. Local communities cannot manage the effects of global capital effectively; states, on the other hand, are more capable of doing so.

Social capital applied in the form of public action is a necessary part of this process for three reasons. First, empirical research does suggest a link between social capital and economic growth,⁴ one of the reasons the World Bank has made social capital central to its anti-poverty development programs. Where the Bank, the International Monetary Fund, and many social capital researchers go wrong is in focusing on social and economic relations as somehow sealed off from the state or as an organic whole rather than an area of contested relationships, a flaw not shared by Sen’s public action model. Second, there is a link between conflict, poverty, and income *distribution*.⁵ On the matter of civil war, for example, Paul Collier writes, “Countries with low, stagnant, and unequally distributed per capita incomes that have remained dependent on primary commodities for their exports face dangerously high risks of prolonged conflict.”⁶ For example, Collier finds that the civil conflicts in Africa are better explained by poverty than by ethnic divisions.⁷ Public action can help lessen the likelihood of conflict by increasing demands to meet the substantive requirements of achieving a covenantal order. It does this by contributing to economic growth *and* equitable income distribution, as well as raising the quality of life understood as capabilities. This in turn can help to alleviate sources of conflict.

Third, public action facilitates the development of more federally

oriented or decentered polities, which in turn create the basis for further public action. For example, in their study of transitions from authoritarian to democratic regimes, Adrian Karatnycky and Peter Ackerman find that successful, lasting transitions depend significantly upon the existence of strong, cohesive (and non-violent) civic coalitions “operating in societies in the years immediately preceding the transition.”⁸ Additionally, public action is efficacious: there is good evidence that the increased public accountability that ensues from a greater degree of civil liberties adds to the effectiveness of governments in pursuing development projects.⁹

Of course, all three of these findings are closely linked, suggesting that a broad, comprehensive approach to development is necessary. There is no reason to separate these strategies or pursue them sequentially. Economically, there appears to be a powerful relationship between higher incomes and democratization,¹⁰ though causality links are unclear. But, as the case of Kerala reveals, arguing that a particular level of economic growth is necessary in order for democratization or the provision of a broad range of capabilities to ensue ignores the vast differences between the points at which societies have initiated movements in that direction, i.e. it replaces a normative policy option with an empirical finding. In contrast, bridging relationships designed to achieve political goals can serve as the basis for increasing capabilities provisions and political engagement, even in low-income regions. For example, Anthony Bebbington and Thomas Carroll examine the rise of social movement among indigenous peoples in the Andes region. These groups are made up of the rural poor, they have very diverse interests, and yet they have been capable of creating powerful organizations with political influence.¹¹ The importance of this example for covenantal thought is found in the way local communities are integrated to develop regional organizations that help otherwise disenfranchised peoples gain a voice in the social order. Bebbington and Carroll refer to these groups as “federations,” emphasizing their bridging characteristics that cross kinship ties. The goals of these federations include both substantive improvements (development of infrastructure, economic growth) and ethical/legal changes (improvements in human rights protections). They represent the kind of layered, interactive matrix (global, regional, local) Elazar has in mind when he writes of the “multicentered network” that should replace the statist, hierarchical model of governance. Bebbington and Carroll find that the role of global civil society organizations, primarily churches and NGOs was critical in creating these federations.¹² However, to echo Colletta and Cullen, the role of NGOs or any civil society actor is contingent, in that it cannot be automatically assumed that they will benefit a society because they add to the mix of social capital. Thus, substantive guidelines (such as those developed by Scholte) and careful research are ongoing necessities.

Colletta and Cullen believe that facilitating the development of social networks in Rwanda and Cambodia has helped in the precarious process of rebuilding in those countries, and the authors argue that these relationships

need to be nurtured and reinforced further. They point to state action that sought to increase the decision-making power of communities which, it is hoped, will increase political mobilization, particularly that of women. At the same time, they admonish international actors to focus on the development of ties that cross tribal, ethnic, and gender lines, and to be careful not to duplicate, and thus undermine, projects already being carried out by local actors. External organization, experts, aid workers, and NGO representatives, must all recognize the need for public discussion to be sustainable, and the ways in which outside groups facilitate or obstruct this process should be as much a part of research as modes of development themselves. They cite the community-based efforts of the World Bank to increase joint decision-making power within communities, a capability that can also give those communities a greater voice at the national level. They also recognize the problem of social capital viewed as an apolitical phenomenon. The problem in Rwanda was not that the beneficial civil society groups did not exist; it was rather that they were seen as good in and of themselves with little consideration of their political focus. "Social learning and social change, not just the presence of numerous types of organizations, are required to make up a healthy civil society."¹³

There are abundant challenges for those seeking to implement covenantal policy solutions in areas like Rwanda and Cambodia. In cases like these, communitarian arguments carry some weight, since any reconstruction of central government legitimacy will have to arise from within sub-national communities. In light of this, Colletta and Cullen advise international agencies as follows: "Projects that decentralize state power and increase participation by civil society actors and individuals should be *implemented to help rebuild faith in the central government* and encourage cooperation among constituents."¹⁴ Here again, the language of decentralization and multiple networks reveals a means not of erasing important communal ties, but rather of building links beyond them and between them. Nor does this policy exhibit a disdain for the state. If anything, it seeks to increase state legitimacy by recognizing that in regions that have gone through the horrors of genocide and civil war, one can only do so by giving actors a sense of ownership in the political order.

Another example of covenantal institution-building is found in the multi-layered Panchayati Raj institutions (PRIs), or village councils, of India. The PRIs were designed by the central government to decentralize power and increase political participation, particularly by women. PRIs were given the task of facilitating community development, which included developing infrastructure, public health institutions, and working with local schools holding them accountable for carrying out their educational roles locally. The original hope for the PRI system was that these institutions would transcend politics and focus on non-partisan development issues, an early version of the apolitical approach to social capital development.¹⁵ In fact, PRIs became highly politicized institutions, serving as channels for

political participation by groups and classes that had previously been excluded from policy formulation. On this point, Subatra Mitra writes:

[U]nder the expansive logic of political competition, the opening-up of local institutions to local interests paved the way for increasing accommodation of the lower social strata who had hitherto been excluded from effective participation. The process through which the local developmental agenda was formulated and the items that appear on the agenda provide an insight into the local developmental environment, the state of social mobility and the local political arena.¹⁶

The PRI model is not without its flaws, some of them quite serious; its successes must be viewed in light of the status quo ante. Marginalized groups continue to be excluded in some areas or have a limited ability to influence policy outcomes. In some cases, these problems are not due to the PRIs themselves, but are often the result of long-standing practices and customs.¹⁷ Despite these problems, the model brings together all the conceptual elements of covenant. For example, in the area of education, which is at the heart of capabilities theory, there is cooperation at the local level between groups with an interest in increasing capabilities among the student population. There is also cooperation between local PRIs, local schools, and the national government. Finally, the program develops a social network in the PRIs that can have spillover effects as it raises the ability of people, and women in particular, within a community to engage in other forms of public action.

The PRIs illustrate another important point. Many of the other examples I have listed above assume a preexisting measure of public interest in participating in the governing process. This interest is itself a form of social capital, one that may be in short supply. This is, in fact, one of the chief dilemmas of development. Paul Collier has addressed this problem by dividing social capital into two categories. He helpfully distinguishes between social capital generated by governments and civil social capital, which arises from non-governmental sources. When civil social capital is lacking, government can respond in two ways: it can “supply government social capital as a substitute for civil social capital” and further “promote civil social capital.”¹⁸ This was one important goal of the Indian government in developing the PRIs. Not only were they designed to improve the effectiveness of policy formulation and implementation, they were also a means of increasing the legitimacy of the state itself, an excellent illustration of the covenantal politics of scale model in which institutions can, in a sense, grow stronger by giving up power.

Economic development

Apart from problems related to violence and armed conflict, it is hard to imagine a more pressing issue than economic development. For conventional realists, however, this is domestic “low politics,” an area that has little

significance for international relations. The Washington Consensus represents the contractual liberal answer to this problem: first, that development would occur as the result of implementing policies that would liberalize markets, privatize state-owned enterprises, and allow for free flows of capital. Allowing more room for the pursuit of self-interest at the microlevel through the removal of the state from the economic sector at the macrolevel would lead to higher levels of sustainable economic growth. Second, strengthening civil society would have beneficial effects on both state and markets. Together, these represented the twin pillars of neoliberal policy.

The initial wave of optimism that accompanied the rise of neoliberalism has of course been moderated by its failures at both theoretical and empirical levels. Yet the pendulum may have swung too far in the opposite direction. It bears repeating that both the attractiveness and subsequent excesses of neoliberalism at the end of history resulted from the dismal performance of command economies, a half century of enslavement of a significant portion of the world's population, and a horrific record of tens of millions of victims of democide. I want to argue that markets and social capital, understood in covenantal terms, are very important to development. Covenantalism requires that a stronger (economic, military) power will sacrifice short-term gains in order to achieve outcomes that are mutually beneficial. Covenantalism, then, is not an altruistic or utopian ideal; its realism is rooted in the belief that *mutual* incentives are necessary to achieve optimal outcomes.

In the previous chapter, I discussed two cases in which social capital theory underestimates the importance of the state, Emilia-Romagna and Kerala. These cases also reveal the importance of interests represented in market activity as at least part of the basis for flourishing. Emilia-Romagna is arguably a region in which communism (of a sort) worked, yet it did so by integrating its economy into the larger European and global economies, i.e. through its connection to transnational markets. While Kerala has seen significant increases in many measures of development, it has remained economically poor, something G. K. Lieten refers to as "the Kerala Puzzle."¹⁹ It is lacking in growth-mediated development (to use Sen's term), forcing many workers to emigrate to find employment.²⁰ One cannot argue that Kerala was closed to international markets; on the contrary, the state's agricultural sector was closely tied to global commodities markets. However, the level of spending on social services may have come at a heavy price, since this left fewer resources available for investment and a transition away from commodity dependency.²¹

The important role of trade and global markets is also evident in the data on global economic growth in the post-World War II period. Aggregate numbers reveal a strong relationship between participation in global trade and economic growth of the kind lacking in Kerala.²² However, the numbers are not quite as clear as they may first appear to be. Some states have been much bigger beneficiaries than others, and benefits have not been evenly distributed within states.²³ I would like briefly to examine a few correctives,

all of which are already the focus of much attention from state trade negotiators, development economists, and activists around the world. Again, my purpose here is not to reinvent the wheel with regard to development, but to discuss how the covenantal paradigm should be applied to specific developmental problems.

The global trade regime needs to be reformed in ways that help to alleviate global poverty and facilitate self-sustaining growth-mediated development. There is general agreement on this point; however, developed states have been engaged in the worst kind of hypocrisy, given their commitments to free trade. Nowhere is this clearer than in the area of trade in agricultural commodities. As the Kerala case shows, liberalizing global agricultural markets is not a sufficient solution, but it is a necessary one. There are many complex reasons for the collapse of Doha, and developing states are not wholly without culpability. Developed states bear the greatest guilt, however.²⁴ The United States, regularly a strong advocate for trade liberalization, actually increased agricultural supports in 2002.²⁵ The EU is a worse offender on this issue, though in relative terms it appears to be more willing to lower supports. Consistent with a covenantal perspective, reform in this area will benefit both categories of states, though developed states must bear the initial costs and risks involved with liberalization. In addition, they must work to be certain that the rapid changes that will result from reform will benefit the poor rather than create further economic dislocation. This will be especially critical for the quarter of the world's population living in less-developed countries that, according to William Cline, are likely to see their net economic status decline because of liberalization.²⁶ Bangladesh, for example, would be hit very hard as it would lose the benefits of many of its trade preference agreements. There should be significant resources available to developed states to deal with this challenge, however, once subsidies and supports are removed. As Ana Gonzales-Pelaez notes: "Total expenditure in support of agriculture in OECD countries in 2000 came to more than US\$327 billion a year, a figure that exceeded the combined GDP of all the developing countries of Sub-Saharan Africa."²⁷ She points out that current policies are most advantageous to wealthier parties with extremely large land holdings. These extraordinary expenditures would have been much better spent on improving health care, education, and creating more business opportunities for the poor at home and abroad. Even a small portion of this money would be more than enough to compensate foreign workers and farmers for losses due to a change in trade preference policies. A 2001 World Bank trade report estimates that roughly \$11 billion (2001 net gain) would accrue to developing countries were high income economies to limit liberalization to their agricultural markets.²⁸ Over the long run, the benefits to populations in developed and developing countries would be substantial. The infusion of capital into developing countries might increase their ability to overcome one of the most harmful effects of colonialism: their dependence on two or three commodities, the prices of which are quite volatile.

Microfinance is also at the center of the development debate, particularly when considered as a part of the larger issue of gender equity and the empowerment of women. Mutual benefits seem less clear here, as interest returns on microloans are generally quite low. Yet as I will argue further below, any changes that provide greater capabilities for women will also add significantly to the possibility of achieving a more peaceful and stable world. The subordination and even degradation of women, in contrast, has the same effect that coercive subordination has had throughout history. It destroys the soul of both the victim and agent of that coercion. Microcredit programs have done some good, and they are a source of empowerment for some women.²⁹ They can be a useful component in a comprehensive program that also includes political, legal, and social elements. Without these other elements, however, there is little evidence that they have had, or will have, the desired effects. As has been the case with social capital, there has been too much emphasis on apolitical factors of development. The covenantal paradigm requires us to keep ever present in our minds the need for prudence in light of the fact that unequal power relationships can simply be recontextualized to meet new challenges. Access to capital is an important factor in the development of capabilities, but if lending organizations and states pay little attention to the inequities in gender relations within households or communities, these loans are likely to have little lasting effect.³⁰

Finally, there is the question of capital mobility. Capital flows have grown dramatically, a fact indicated by the foreign exchange turnover of \$2 trillion a day within international markets. New instruments and investment packages like hedge funds have been developed that can allow investors to protect themselves from the vagaries of the market; however, many of these instruments are used for the purpose of speculation, not protection. The consequences of overly speculative market operations were painfully evident in the global financial crises of 1997–2002 that devastated Thailand, Russia, South Korea, Brazil, and Argentina, among others. The 1997 crisis nearly caused a financial meltdown in the US because of the activities of one US firm, Long Term Capital Management. The interconnectedness of these markets means that the economic well-being of hundreds of millions of people in both developing and developed states depends upon the decisions of a small portion of the global population. The extremely time-sensitive decisions of those in this small group are driven by skill, luck, and the most dubious of fallacies of composition (e.g. Argentina = Brazil because they are both in Latin America or South Korea = Thailand because they are both Asian). Neoliberal arguments that financial markets should remain utterly unregulated (except for regulations that maintain transparency) appear not only intellectually suspect in this context, but even dangerous. In light of recent economic history, calls for international rules limiting capital flows do not seem to be unreasonable.³¹ Even Paul Krugman recommended that Malaysia adopt controls after the 1997 crisis, while others have pointed out that China, with its limitations on capital mobility

and currency convertibility, has not suffered from a shortage of capital. Nor has its ability to develop at a rapid rate been limited by such controls. In addition, in the midst of the 1997 crisis, China's economy did not collapse the way those of many other developing Asian states did.

Unfortunately, China appears to be an exceptional and misunderstood case. Its ability to escape the worst effects of the 1997 crisis was due to limited capital mobility, but also to a number of other factors that would not be affected by capital controls.³² The presence of capable leadership, low levels of foreign debt, and a significant current account surplus also helped limit its international exposure to the volatile international capital markets.³³ On the negative side is the problem of moral hazard. Limits on financial flows created a lower level of incentives to reform the banking system, a sector of the Chinese economy that has been, and continues to be, very troubled. Nicholas Lardy finds that China's insularity from the 1997 crisis does illustrate the benefits of not engaging in capital account liberalization prematurely as well as relying heavily on foreign direct investment as opposed to other forms of investment that are more volatile. However, he argues, liberalization remains a necessity.

It would be hard to argue, however, that the case of China supports the desirability of postponing financial liberalization. . . . A high degree of financial repression remains, with the central bank continuing to exercise pervasive controls over interest rates on both the deposit-taking and lending sides of banking business. Similarly, banks remain subject to confiscatory levels of taxation. The costs of this approach are high. Most obviously, intermediation remains quite inefficient, resulting in the continued waste of a large share of national savings. Above all, the current system is not sustainable. It is, in effect, a pyramid scheme that is viable only as long as there is a continued large flow of household savings into the banking system.³⁴

There are profound disagreements among economists as to whether capital controls can really be effective in the aggregate.³⁵ One problem is that it is very difficult to tell the difference between protection and speculation, and international limits on speculation could have the nefarious effect of also limiting capital availability to developing states or raising the costs of borrowing when rates may already be much higher than in developed states.³⁶ However, it does appear that a set of very limited regulations could largely avoid these problems while also creating incentives within states to increase transparency. For example, Barry Eichengreen finds value in the use of relatively market-friendly methods of limiting capital mobility, such as the use of taxes on short-term capital transactions to reduce the attractiveness of such trades. This approach has the advantage of creating disincentives for short-term transactions while not frightening investors to the point of having them raise the costs of borrowing significantly.³⁷ Of course, this will

not help discourage the flight of longer term investments in the face of a crisis. To deal with these kinds of problems will require changes in the structure and policies of financial global governance and more careful planning in the sequencing of liberalization policies. Eichengreen, for example, suggests liberalizing foreign direct investment markets before opening other avenues of investment.³⁸

In the end, it is the state itself that must take responsibility for representing the interests of its people in global markets. What the debate over capital controls reveals is that ultimately there is no way to escape the need for good governance. The state still matters. Indeed, given the attention paid in the post-Cold War period to the (very real) virtues of markets and of civil society, there is some irony in the fact that we have come full circle. In a globalizing world, it appears that development depends more than ever on the state. Securing the economic interests of a people requires the same skill and integrity as securing their political interests. The neoliberal model of growth deemphasizes the importance of differences between state capacity to manage growth in ways that benefit a broad range of workers. The examples I have cited above show instead the continuing importance of the state as a key actor in managing development. In fact, state capacity appears to be the key variable in determining whether and to what degree developing states will succeed in achieving the economic goals they have set for themselves. As Elazar, Tocqueville, and Putnam indicate, states that do one thing well are more likely to do everything well. At the same time, Tocqueville's warnings regarding the consequences of centralization of administration remain relevant. The argument here is not that the state as mediator requires a return to *étatisme*. The choices are not between a *dirigiste* and highly centralized, hierarchical state and a decentralized, weak state inordinately influenced or controlled by foreign actors. Instead, what is needed is precisely what Tocqueville advised: centralized government rather than administration, powerful in its sphere and capable of cooperation with regional and local governing institutions. Admittedly, this is a difficult balance to find, and in a multinational state this is even more true.

The suffering caused by the Asian Crisis (and by the structural adjustments that followed) occurred within the context of the "Asian miracle." In the aftermath of the crisis, it is easy to forget how much ground had been gained up to that point, and how much has been regained since then. It is also easy to forget the role of governance in a story that is primarily about economics. In one sense, the Asian miracle provided further evidence for the benefits of neoliberal policies in the 1990s; yet neoliberal theories emphasized the absence of state activity as a virtue.³⁹ The reality was quite different. As Harold Kerbo has shown in his studies of global poverty, Asia's rate of growth has been the fastest in history, but contrary to the views of those opposed to globalization, this growth has occurred "*despite (and often because of) the extensive corporate investment coming from the outside.*"⁴⁰ By itself, such investment may be necessary, but it is certainly not sufficient to facilitate

growth. Foreign investment has found its way into any number of countries that did not experience anything like the Asian levels of growth. Many of these states dutifully followed market-oriented policy formulas, yet they achieved little growth and developed enormous debts. Kerbo believes the difference lies in two factors. States that achieved high levels of growth began with low levels of “material inequality” and had “elites motivated and able to protect national interests.”⁴¹ In turn, he finds the most important indicator of whether or not states have the capacity to manage development is the complexity of government that existed before they were colonized by Europeans. Where Putnam finds the civic culture of the medieval period creating benefits well into modernity, Kerbo finds the same to be true of the quality of administration.

What the Asian example also reveals is that the state must serve as a kind of Tocquevillean mediator between global capital and domestic interests. Tocqueville understood that mediating institutions were necessary to help individuals organize in ways that allowed them to solve collective action problems. Of course he had in mind associations that would mediate between individuals and states. However, in a global system that involves individuals potentially finding themselves subject to the rule of foreign capital, high-minded NGOs and intergovernmental organizations, and developed political powers, states themselves must serve as mediators. Certainly states must integrate their markets in some measure in order to take advantage of global capital markets. But in order for populations to become masters of their own economic destiny, they need strong representation in the global system. In the current system of global governance, only states have the ability to manage these forces. Civil society actors can and should facilitate transparency and help local actors (e.g. peasant federations) to gain a voice in the formation of state policy. And they can certainly play a role in helping to bind together the fragmented ethnonational groups that are found in many developing countries, groups that must work together to further their own interests. In many, if not most, cases, the means by which these groups will bind themselves to one another to solve collective action problems will involve some form of federal or confederal arrangement: in other words, some form of covenantal association. Again, civil society actors and international agencies can help groups develop confidence-building measures to aid in this process. But once collective action becomes possible, further development will require more than open markets and vigorous civil society; it will require strong governing institutions and good public administration.

The external challenge: managing competition, diffidence, and glory

In some measure, the scientific study of conflict has confirmed Hobbes' view that violence stems from three sources: competition (e.g. for resources), diffidence (suspicion), and vain-glory (seeking honor and glory).⁴² Marxian

theories tend to focus on competition in the form of class conflicts over resources, which can be solved through a just distribution of the rewards of labor. Liberal theories of conflict management tend to focus on competition and diffidence which, liberals argue, can be addressed through economic development, negotiations between hostile parties, and confidence-building measures that can initiate a virtuous cycle of trust. Realists recognize the importance of all three, but argue that glory-seeking and the desire to accumulate power dominate the other two. Covenantalism comes closest to realism on this point. There are similarities between covenantal, liberal, and Marxian claims that any successful policy agenda must address the fact that many acts of violence are the result of poverty and economic insecurity, and long-standing patterns of distrust between peoples. Yet the realist element of covenantal thought requires us to recognize the limits of this approach. I chose the term “conflict management” above quite deliberately. Realists are correct when they argue that this is the best that can be hoped for. We will never completely overcome the *animus dominandi*; however, we do not live in the midst of a Greek tragedy. *Moirai*, *fortuna*, and human nature do not determine our fate. As Machiavelli understood, they do require the application of prudence. Many Marxists and critical theorists also recognize how structures of dominance embed themselves in quite innocent-sounding policy agendas. However, realism and covenantalism are less sanguine about the possibility that any system, regime, or plateau of economic well-being can rid the world of this tendency. Whatever the other faults of his view of conflict, Huntington is surely right in his claim that in this sense, there is “no exit” from history.⁴³

Helping to develop the capacity for public action and effective administration in politically unstable states and regions, along with facilitating economic growth in these regions, will also have ameliorative and mutually beneficial effects. I have discussed the role of some of these policies above. But more is needed. Covenantalism requires us to look to federal solutions to challenge disparities in power. These solutions involve both institutions and shared commitments to common moral objectives. In the next section, I return to a point I made above in the context of discussing microfinance. Covenantal thought reminds us that the *animus dominandi* will inevitably find new ways to overcome the limits covenants seek to impose on human behavior. Quite often, this will occur in the context of institutions responding to a crisis, such as war (including cold wars), domestic conflicts, or economic collapse. Political history over the millennia provides numerous examples of power directed toward some good end becoming the basis for future tyranny. There are more Caesars than Sullas (and there are far too many of both). As I have argued throughout this book, federalism, is more than a method of constructing institutions: it is also an ethic in the original sense, a way of life that requires constant vigilance.

Developing more peaceful relations, then, means applying a range of policies. Containing movements that seek to do great harm to civilians is a

must, and in the short term will require very realistic responses that do not look very peaceful. Certainly terrorism in the age of nuclear weapons is a significant threat, one that has changed the balance of power forever. When future horrific acts of terror occur, and they will, affected states will have to respond swiftly, but they will also have to exercise temperance. Terrorism is by its very nature designed to foment intemperance in its victims, and in an age characterized by value-relativity on the one hand and a rigid obsession with rules on the other, exercising any of the virtues in the midst of this ongoing conflict will be a challenge.

Other major threats like genocide, crimes against humanity, and ethnonational conflicts have done much more damage than terrorism. Because they have not posed existential threats to states able to project power, they have not been taken as seriously as they should have been. Humanitarian intervention without UN authorization is at present unlawful, an all too rare reflection of concern for the *animus dominandi* present in international law. At the same time, the lack of some ability to respond to such crises after a Security Council veto is tragic. Gurr and Harff have argued that states that have signed the Genocide Convention, and then violate it, should be held accountable for what they refer to as “breach of contract.”⁴⁴ (Given the extraordinarily moral nature of the subject matter, it would be more appropriate to label such acts as breaches of covenant.) This solution is not perfect: it does not solve many of the problems that plague the current system. The Rwanda crisis and a host of others would not have been affected by this new interpretation of law. Nor does it solve the problem of ad hoc application of law in itself.

But it does illustrate an important point: states that seek to take advantage of the privileges that come from committing to principles of law also take greater risks if they defect from those commitments. States must find a way to deal with the fundamental contradiction in the international system between justice and peace. It is more than likely that the solution will be covenantal in nature.

The presence of the spirit of domination requires that power be separated and shared. Dividing and balancing power provides some measure of security for us from those who would seek to harm us; it also protects us from ourselves. Realists argue that the balance of power is in some contexts a tragic necessity, but it can also be a blessing. Witness the opposition of Reinhold Niebuhr and Hans Morgenthau to the Vietnam War. One could even point to the positions Republican “realists” took on Iraq. Their return to power in late 2006 reflects a shift in US policy back to the recognition that US power is and should be limited for its own sake. I shall argue below that the earlier Bush Administration’s policy of approaching the UN before it approached the Congress of the United States to gain authorization for the 1991 war is fraught with implications regarding the means by which the American founders hoped to limit executive power, including the power to take America to war. Those limits are surely more critical now than they

were two centuries ago. Yet one can also argue that the elder Bush understood the power that greater legitimacy bestows. Whether or not one regards the UN vote as window dressing, there were very realistic benefits for the administration in behaving like liberal institutionalists in that instance.

From federal to hierarchical liberal foreign policy: the case of America

The fact that the US is the only state that is capable of controlling strategic space on a global level means that its actions, and particularly its mistakes, have an asymmetrical effect on international relations. The American founders created institutional and legal mechanisms they hoped would increase the level of deliberation and consensus required in the making of public policy. With regard to war powers, those mechanisms remain in place only as formalities. However, many Americans at both ends of the political spectrum have argued that it is time to reexamine the wisdom of permitting an “imperial presidency” to arise in the Cold War period and to remain in place well after its conclusion. Where institutions have failed, public action arising from a political culture deeply embedded in the federalist tradition may succeed.

Kant’s inability to integrate interests and consequentialism into a larger ethical theory distinguishes him from the moralistic synthesis we see in covenantal thought. As I showed earlier, ironically it leads towards the kind of unitary rationality so typical of the bureaucratic iron cage. Yet classical liberals who preceded Kant, namely the American founders, had no trouble integrating interests and ethics. The political culture of the northern American colonies had prepared them to think precisely in this way. The covenantal elements of this culture, in fact, require this synthesis.

One might reasonably inquire as to why it is that if democratic republics are at peace with one another, they are so violent in their relations with everyone else. There are two answers to this question. First, as liberals from Locke and Kant to Fukuyama have understood, the clash between nations mired in “history” and those which have reached its end is an ongoing process. This is perfectly consistent with covenantal theory. Those who do not bind their own power internally may not do so externally either. Illiberal states suffer from the political pathologies described by Elazar in his discussion of traditionalistic political cultures. Illiberal nations internally favor the interests of those in control of their hierarchies; there may be few, if any, ethical circumscriptions surrounding interest-seeking. Though they govern their people, they have not met the Madisonian requirement of governing themselves. For that reason, covenantal nations must deal with illiberal states in terms of interests without violating basic moral principle. This task is a matter for prudential action and not subject to predetermined rule-application. The legal relationship between covenantal and non-covenantal

states is tenuous at best when dealing with matters of *public* international law. Covenantal states ought not to enter into legal arrangements lightly with states which have no accountability to their own people to live up to their agreements.

The need to survive in a hostile environment may explain some liberal aggression. But it does not explain imprudent vehemence, the second reason for liberal aggression. I have already explored the theoretical and psychological roots of this liberal characteristic. But there are other reasons as well that have their origins in institutional changes which have occurred in liberal states. Nowhere is this more obvious than in the evolution of US foreign policy, a fact succinctly documented by Morgenthau.

Morgenthau divides American foreign policy into three periods: the realistic, the utopian, and the moralistic. In the first phase, the same sensibilities that contributed to the establishment of federal constitutional government also contributed to a foreign policy that understood the demands of both justice and power. American policy-makers maintained a sense of proportion with regard to foreign conflicts, realizing the benefits of remaining neutral and the hazards of being drawn into conflicts that did not threaten its survival. Morgenthau looks with special favor on John Quincy Adams' tenure as Secretary of State. Regarding what would now be called questions of human rights, Adams' view was that the US should "attract the rest of mankind" to its views through example rather than by coercion.⁴⁵ This was of course an ideal, one that the US was failing to achieve even during Adams' own day. Nevertheless, no better statement of the underlying principle of a covenantal foreign policy could be made than this. Covenantal political organization, with its emphasis on power-limitation, severely limits states' ability to engage in vast foreign adventures. A federal conception of liberty ought to make them morally unwilling to do so in all but the most exigent of circumstances. This was true of the earliest biblical Jewish polity which was designed to be a confederation of tribal entities connected only by Torah obligations. Even provisions for monarchy limited kings to constitutional powers and prohibited standing armies, a serious check on foreign war.⁴⁶ The elimination of standing armies was also a tenet of Kant's own design for securing the perpetual peace.⁴⁷ One might also note the importance of citizen militias, which Kant favored, in the history of the US, and their current importance in Switzerland and Israel.

In the foreign policy of the early republic, the US incorporated what Alexander Bickel (in the field of jurisprudence) called the virtues of passivity into its foreign policy. As Morgenthau and other realists have noted, there is a danger to matching great resources to utopian projects. This unhappy combination can all too quickly result in a loss of what Morgenthau refers to as "cosmic humility." He states: "To know that states are subject to the moral law is one thing; to pretend to know what is morally required of states in a particular situation is quite another."⁴⁸

Morgenthau's second period of US diplomacy is characterized by more

ideological concerns. Beginning with the Jefferson Administration, American policy began to be oriented toward moral principle that, as it happened, seemed to coincide with national interest. Jefferson believed that moral duty should prevail at the international level as it did at the domestic. Even so, as president, he continued to focus on balancing power until the end of the Napoleonic Wars. Morgenthau writes, "In 1806, [Jefferson] favored 'an English ascendancy on the ocean' as being 'safer for us than that of France'.... However, in 1812, when Napoleon was at the pinnacle of his power, Jefferson hoped for the restoration of the balance."⁴⁹

After this period, Jefferson returned to his abstract moralizing about transcendent principles.⁵⁰ However, should he have desired to engage in war to enforce principle, limits on American power projection prevented it. Federal institutions originally could not provide the government with the power it currently possesses to carry out grand foreign policy adventures. The level of organizational centralization necessary to allow the US to mimic the policies of European states was conspicuously absent during this period, though it was certainly sufficient to expand American territory into the West.

With the McKinley Administration and the Spanish-American War, the US entered a third policy phase in which moralism and power were combined. By this time, the shift of power to Washington has been enhanced by the mobilization of resources during the Civil War and the Progressives' political response to the rise of US commercial power. The accretion of power to the political center allowed American leaders to pursue a more aggressive foreign policy. The annexation of Spanish colonies was due not to concern for national interests, but to the moralistic imperialism to which great powers were so susceptible during the imperial period. It was Woodrow Wilson, however, who combined moralism, par excellence, with war aims. Morgenthau writes that for Wilson, World War I "was waged for the purpose of making one moral system, held by one group, prevail in the rest of the world."⁵¹

The Wilsonian approach is antithetical to covenantal politics that adheres to consensual foundations.⁵² It is one thing to alter practices in states defeated in wars they began, in order to bring those practices more into line with international legal and ethical principles. Again, that is a matter for prudence, depending largely on the ability to match means and ends. It is another thing entirely to wage war specifically to bring about such changes, a sure recipe for imprudent vehemence.

Covenantal political theory holds that creating a centralized administrative hierarchy (to use Tocqueville's term) to carry out the noblest of acts worldwide will result in the use of that power for less noble purposes. In the words of John Cotton:

Let all the world learn to give mortall [sic] men no greater power than they are content they shall use, for use it they will: and unless they be

better taught of God, they will use it ever and anon. . . . It is necessary therefore, that all power that is on earth be limited.⁵³

Whether mortals are taught of God or not, it seems reasonable to limit power for precisely this reason. To repeat R. J. Rummel's dictum, "Power kills; absolute power kills absolutely."⁵⁴ Few regimes, liberal or otherwise, given centralized power, can resist the temptation to use it.

Separate but interacting institutions, the American founders hoped, would help prevent such a dangerous concentration of power.⁵⁵ This solution has its own limits, of course, since it does not guarantee that the political branches will not find new ways to dominate the policy-making process. Nor does it guarantee that the other branches will not allow themselves to be so dominated. The abdication of Congressional authority is particularly troublesome given the natural ability for executive institutions to centralize power. As Louis Fisher has noted, apart from small, limited engagements, presidents normally sought Congressional approval for war. This policy changed when Truman took the US into the Korean War without such approval and presidents since that time have, on many occasions, followed this precedent.⁵⁶ Referring to the unwillingness of Congress to serve as a check on President George W. Bush's plan to invade Iraq, Fisher goes so far as to say that Congress seemed "incapable of . . . protecting its institutional powers."⁵⁷ Fisher and David Adler argue that to some degree, the problem lies with the decision of Congress to limit presidential power through the War Powers Resolution. In fact, it has had the opposite effect, authorizing the executive to initiate war without Congressional approval for up to sixty days, which, in turn, has allowed several presidents, including Ronald Reagan, George H. W. Bush, and Bill Clinton, to sidestep Congress.⁵⁸ Fisher finds another disturbing pattern in institutional interactions relating to war. US presidents have a habit of appealing initially to international institutions like the UN Security Council or NATO rather than to Congress for authorization of the use of force.⁵⁹ The effect of the War Powers Resolution on Congressional authority has, if anything, made going to international organizations first more rather than less appealing.

Adler and Fisher believe the federal courts may be of some assistance should they determine that a specific conflict between the political branches over war powers is justiciable and ripe for adjudication. I believe this is a counterproductive means of returning a greater control of war powers to Congress. The courts have applied the political questions doctrine broadly when confronted with conflicts between the political branches over military affairs, and they have done so for good reason, recognizing the jurisprudential and political limitations they face in this area. Ultimately, the solution to these problems is for Congress itself to reassert its authority. Fisher recognizes the existence of a significant body of scholarly literature that would find this approach to be nothing more than wishful thinking.⁶⁰ But I would argue that there is no reason such a change cannot occur, especially in light

of the 2003 conflict in Iraq, which reminded Americans of the virtues of the founders' views. Elections and public action that occurred during the occupation period led to a broad recognition among members of both major American parties that greater care should have been exercised in the deliberations regarding whether to authorize the President's plans. In the near future at least, it is unlikely that members of Congress will be quite as supine as they were in late 2002. While they will continue to authorize actions which occur in response to a very tangible threat, such as the operation against the Taliban in 2001, they are not as likely to give their blessing to another request for a major invasion and occupation for preventive reasons.

No institutional arrangement, even when working at an optimal level, can replace the need for prudent leadership. The same virtues that were necessary for good governance in centuries past – wisdom, courage, temperance, and a sense of justice – remain necessary today. This is true for all states; in this sense, liberal democracies are not “different.” A state with a high per capita GDP, with effective competition and cooperation between governing institutions, and with a high level of development, could still face decline, collapse, or even destruction because of poor leadership. Tocqueville's concerns regarding the power of majorities remain relevant here. The legitimacy that majoritarian passions (or the passions of a very vocal minority) can bestow upon policy decisions, in combination with poor leadership, can wreck the ship of state very quickly. This is especially true when those passions arise in response to acts that shock the liberal conscience.

Morality, prudence, and policy: Abraham Lincoln as a covenantal president

Of the three phases of US foreign policy outlined by Morgenthau, the covenantal model is most consistent with the first. In the modern period, however, its virtues are not obvious to those solely concerned with rights, as seen apart from specific contexts rather than as arising out of the network of mutual obligations that make them possible. But as recent conflicts have shown, engaging in war to right wrongs or to expand the freedom of others rather than to defend oneself is a very dangerous foundation for policy. Such wars can only be fought with broad support and legitimacy. Even then, they may be morally justifiable but terribly imprudent. Yet this broad perspective on the range of goods that must be considered before the use of force occurs seems like sheer casuistry in the midst of terrible suffering. The tens of thousands killed or tortured by Saddam Hussein, the slaughter of innocents in southeastern Europe, and the global parade of horrors we have witnessed over the last century make careful deliberation and discussion seem almost like acts of moral cowardice (and sometimes they are). There is something agonizing about watching men commit evil deeds and continuing to

limit one's response. No American president has had to deal with this issue more than Abraham Lincoln. Lincoln's administration occurred in the midst of the second period; however, his approach to dealing with evil and aggression reveals some important principles of how covenantal thought integrates right and prudence.

The New England contingent of the American founders, the inheritors of the covenantal tradition, had to deal with just such a problem: slavery. Making a place for this abhorrent practice in the new nation was premised, however, on the belief that the institution would eventually disappear if the trade in slaves was limited. This assumption would undoubtedly have proven accurate if not for the invention of the cotton gin which made slavery extremely profitable again.

Covenantal thought and hierarchy cannot coexist for long periods of time, and US political development was no exception. North and South divided more and more over moral and political philosophy. One aspect of that divide culminated in the argument over the nature of the original agreement to build a nation. John Calhoun was the best known among those arguing for a radical revision of the covenantal basis of the founding. Calhoun believed that organic societies had primacy over all others. The states were organic and, therefore, preceded the Union in importance and in jurisdiction over matters like slavery. Northern attempts to rid the nation of the institution were egregious violations of the autonomy, both moral and political, of Southern states.

Abolitionists in early nineteenth century New England agonized for decades over the practice of slavery. Some, like John Brown, were determined to end it immediately by force. Others, though just as passionate about its elimination, had a more prudent response. Abraham Lincoln spent much of his early political career making his abhorrence for slavery known through public debates on the subject. Yet he also understood the limits on the efficacy of power in dealing with a moral problem. Lincoln rejected the contractual theory of American politics in favor of a covenantal model rooted in the Declaration as America's defining covenantal document. He also understood the terrible price to be paid for empowering and unleashing the military to respond to the brewing crisis in America. He did not use power lightly. He was prudent about what it would require to accomplish the task of maintaining the Union while not ruining, and therefore alienating, the South forever.

Lincoln clearly saw the Union in covenantal terms. Elazar finds significant Lincoln's references to the Union as a "regular marriage," placing the Union within the context of that other most covenantal of institutions: matrimony.⁶¹ Though the Constitution had been compromised by necessity, the Declaration, signed by representatives of the original colonies, had not. Lincoln referred to it again and again as the foundational moral document of the nation. The Declaration required a federal, not a natural, concept of liberty. Freedom, in this view, is the freedom to determine a rational means

to a valid objective (to use the US Supreme Court's terms), not to engage in inherently immoral practices.

Slavery, in covenantal theory, is like adultery in marriage: a material breach of covenant that violates its essential nature and purpose.⁶² Separation cannot be legally justified on the basis of material breach by the offending party, only by the injured party. For Lincoln, the highest moral purpose was achieved in the preservation of federal liberty within the framework of the Union. Yet that did not justify conquest of the South in order to achieve the end of slavery – in other words, in order to bring southern political culture into accord with that of the North. Lincoln understood that this could not be done by coercion. Only in the process of saving the Union, necessitated by southern military aggression, did he free the slaves.

Elazar describes Lincoln as a moralist in the midst of the individualist political culture of Illinois. His Whiggish background was part of the larger pattern of American covenantal thought, which requires prudence so as not to threaten “the political-social order beyond what it could bear.”⁶³ When one reads Morgenthau's statements on political morality, there is a sense that he is trying to communicate the same principle of prudence tied to transcendence. I have shown why, ultimately, his ethics and epistemology cannot meet. Nevertheless, Morgenthau's vision of ethics seems to be substantively guided more by Lincoln than by Nietzsche.⁶⁴ He wrote a great deal on Lincoln and looked at him as a model of tragic accomplishment, as have many before him.

In *Politics Among Nations*, Morgenthau summed up his theory of international morality by looking to Lincoln's statement to a delegation of Presbyterian ministers who had asked him to emancipate the slaves immediately. Lincoln understood his moral obligations in this matter, but he also understood that they existed in a political context, requiring him to “study the plain physical facts of the case, ascertain what is possible and learn what appears to be wise and right.”⁶⁵ Lincoln had no doubts about the wrongness of slavery, only about the consequences of immediate emancipation. Eventually, emancipation became official federal policy. What mattered was considering the best means and timing available for achieving the good in human affairs. This is an important lesson for contemporary liberals. The agony over human tragedy, particularly that caused by other humans, should not cause us to make decisions that only exacerbate evil.

Covenantal political theory turns not to coercion but to “hearkening,” recognizing that lasting political traditions are based on consent. John Quincy Adams, who believed America's basic covenantal document to be the Mayflower Compact, provided the basis for a covenantal foreign policy when he noted that by attempting to spread the cause of liberty by force of arms, the US might someday “become the dictatress of the world. She would no longer be the ruler of her own spirit.”⁶⁶ Given the power and scope of the current US national security state, Adams' view seems prophetic.

The European Union as the foedus pacificum

In the afterword of his revised edition of *The End of History*, Fukuyama responds to some of his critics who accused him of equating the end of history with Americanism. Nothing could be further from the truth, he argues, since he clearly attributed the post-Hegelian understanding of history's end to Alexander Kojève and the European Union. From a more critical perspective, Robert Kagan refers to Europe as a utopian Kantian "paradise," one that is unwilling and has rendered itself unable to contribute to the maintenance of the kind of peaceful global order its security depends upon.⁶⁷ Kalypso Nicolaidis responds to Kagan's critique by arguing that Kagan misreads European views completely:

Increasingly, Europe's Kantian approach is not utopian, or second best, but a deliberate choice, the most effective strategy it has found based on hard experience. In short, Europe is no longer Kantian because it is weak (militarily that is); it is now weak because it is Kantian.⁶⁸

Kant takes concerns about power and institutions into account in his argument for a federal system of global governance that relies upon a politics of scale. That republic which has found the means to govern its people, as well as itself, may be trusted to limit its power in its relations with other states. It is not its inherent rationality (in some moral Newtonian sense) that makes it pacific; it is its ability to limit its own power through careful construction of institutional practices.⁶⁹

In the twentieth century, a belief in the importance of power-sharing and self-limitation was at the foundations of an astonishing experiment, one that changed the trajectory of European, and human, history. One important difference between realist and covenantal forms of circumspection is the covenantal belief that close cooperation between covenanted states can result in a zone of peace that looks suspiciously Kantian. On this point, covenantalism resembles neofunctionalist and neo-institutionalist theories. There is nothing inevitable, automatic, or necessarily permanent about cooperation between these states. Maintaining it and extending it will be a constant challenge. It is unlikely that Europe and the US will ever have the kind of close relationship they became accustomed to in the Cold War period. It is even more unlikely that, given the transnational economic, legal, and political relationships that exist between them, that relations would become openly and permanently hostile.

Even given the fact that all EU members are liberal states, there have been a number of problems bringing about integration, most recently the failure to create a European constitution acceptable to all of these states. Yet one wonders whether the term "failure" is apropos. Nicolaidis contends that "The European Union's real comparative advantage lies less in engineering

convergence among its members' policies and more in its capacity to manage enduring differences between nations."⁷⁰ The controversies and dissatisfaction with the direction of European integration must be seen in the light of how far Europe has come in a half-century. Seen from that perspective, the EU's current difficulties appear marginal.

The EU imperfectly fulfills the three requirements for the covenantal order. First, in Elazar's words, the EU is a "confederal system."⁷¹ The liberty of nations and individuals within them is federal, and oriented toward human rights and material justice under the guidance of EU and state legislation, European Court of Justice (ECJ) decisions, and the European Convention on Human Rights (a separate jurisdiction, to be sure, but related in its effects). Yet it is not at all clear that the rights approach taken by the EU will not run into the same difficulties experienced by American courts in balancing individual and communal goods. Second, power is shared among the member states and the European Parliament is relatively representative. However, the European Commission, the bureaucratic arm of the EU, seems to be fulfilling Weber's vision of bureaucratic rational decision-making. As George Soros put it some years ago, "Brussels has become a bureaucrat's dream; its legalistic, ever more complicated structure is foreign to the spirit of an open society."⁷² That claim is somewhat exaggerated when one compares the number of civil servants and regulations in the EU to those in the member states.⁷³ But one former budget commissioner, Erkki Liikanen, communicated a common concern when he stated that the organizational culture of the Commission combined "French hierarchy, German *Mitbestimmung*, and Italian trade unions."⁷⁴ As integration continues and the responsibilities and staff of the Commission increase, one wonders, along with Soros, how open European society will be. Europe's future, as envisioned by Jacques Delors, may be Weberian rather than Tocquevillean.⁷⁵

The third element of covenant, realism, continues to play an important role in both domestic and foreign policy insofar as concerns about the integrity of political communities, even within a version of the *foedus pacificum*, have served as a brake on further integration. Europeans increasingly recognize the limits of cooperation which are, in turn, rooted in different priorities and values within the states. Domestically (from a "European" context) critics from the left have objected to the heavy-handedness of some ECJ and Commission decisions that have altered or ignored national environmental, labor, and benefit standards. Local and regional power has diminished in ways that are in conflict with the covenantal model, in which consent and participatory decision-making are musts. On the right, there have been critiques of centralized economic regulation from Brussels. This is occurring in a region which has seen no net job growth over the last three decades and which has chronic unemployment rates two to three times that of the US. If the right and left are to find ways to achieve their respective goals while accommodating one another, those solutions are not likely to come from Brussels or Strasbourg.

The division between the UK and Eastern and Western Europe over the Iraq conflict highlights the difficulty of accomplishing unity from the top down, even in the face of a great diplomatic crisis. European states have become “swing voters” in matters of foreign policy, standing between the US (and the UK) on the one hand and a growing level of Russian-Chinese counterhegemonic cooperation on the other. In nearly every serious matter of global security, from North Korea to Iran and the Israeli–Palestinian crisis, individual European states can alter the balance not of military power but of legitimacy, which has become almost as important in the context of present conflicts. Yet further progress in coordinating foreign and security policies seems unlikely, for reasons realists would quickly recognize. Liberals find the realist categories of high and low politics to be problematic at best. The state is made up of institutions with different interests and agendas. That is quite true if the focus is not on security policy. Thinking about states as unitary rational actors may be absurd if we are examining the development of postal or environmental regulations. In matters of security, states appear to become much more unitary and instrumentally rational. Certainly EU states are not concerned about transferring sovereignty over security policy to the EU because they fear attack from other member states, but rather because security decisions are quite literally matters of life and death.

In the end, the grand experiment of European unity may serve as the definitive example of how liberal states can deemphasize (or redefine) short-term interests in exchange for long-term goods. The EU is an example of a political experiment with global implications; as Nicolaidis observes, it is one “grounded on the cosmopolitan belief that there is no radical separation between a national, European, and universal community of fate, even if there is indeed a gradation in the amount and range of common uncertainties to be faced and managed.”⁷⁶ It may provide further guidance on how to expand cooperation between all liberal democratic states on a neofunctional and incremental basis, an approach that can address the concerns of liberals and (at least some) realists alike.

The world-state and the limits of global governance

The development of the EU should also serve as a cautionary tale, a reminder of the importance of a principle central to federalist thought: the greater the scope of jurisdiction, the more concerned we must be about hierarchy and the potential for a loss in diversity. The tendency for liberal institutionalists to equate supranationalism with progressive liberalization itself is a contingent and unfortunate phenomenon. The “realist” concerns of conservatives and Marxists alike regarding the potential for supranational institutions to serve as vehicles for dominance by political or economic elites have been regarded by many liberals as unwarranted. This is largely due to a failure of imagination, one that arises from their focus on neutral procedures which are guided by invisible forces in the correct moral direction. As history has

shown again and again, political institutions created for liberal purposes can be wielded effectively by parties with very illiberal agendas. As we move up the scale of political institutions from the state to the global level, the dangers become far greater.

As Elazar makes clear, covenantal thought eschews the notion of a world-state, not only because of the potential for tyranny and the lack of exit options, but also because of the substantive limitations of federal liberty. Illiberal states that do not afford their citizens meaningful representation at the domestic level cannot easily fulfill the requirements of covenantal political ethics. Because of the difficulty of integrating relations between liberal and illiberal states on anything but a limited foundation of interests, successful liberal institutions will be transnational rather than international.

There is also a more positive reason to avoid a world-state, one arising from capabilities theory: diversity is a form of freedom, one that is important in and of itself. Kant also argues against the construction of a supra-national world-state for similar reasons. Though this position seems inconsistent with the parameters of Kantian rationality, Kant uses language that could just as easily have come from the pen of Tocqueville, arguing that a world-state would degenerate into a "soulless despotism."⁷⁷ This is a concern shared by many liberals, including Nussbaum, Rawls, and Slaughter, all of whom believe a world-state to be a dubious means of dealing with global anarchy. Slaughter voices two very common concerns regarding a world-state. First, she argues that the "size and scope of such a government presents an unavoidable and dangerous threat to individual liberty." Second, she questions whether a world-state can make room for the "diversity of the peoples to be governed."⁷⁸ Nussbaum makes a similar case against a world-state. Global institutions are valuable and necessary, but they should remain "thin and decentralized" because of the potential for the monopolization of power. Moreover, beyond the instrumental goods it provides national sovereignty is an inherent good. "National sovereignty," she argues, "has moral importance, as a way people have of asserting their right to give themselves laws."⁷⁹ I would add one other point to these concerns, one central to covenantal thought and that is implicit in the distinction between outlaw states and liberal or decent states in Rawls' *Law of Peoples*. While the UN has tremendous value as a forum for communication, and though it has had some important successes in its peacekeeping operations, its very inclusiveness makes it a dubious source of global moral authority. Whatever its virtues, it is difficult to see how the UN can be called a liberal institution; indeed, the exclusion of *meaningful* judgment of domestic practices implicit in its origins and explicit in many of its operations reflects something much closer to the liberal caricature of the substantive dimension of realist ethics. It is procedurally democratic (at least in the General Assembly) but its approach to democracy is substantively hollow, as even a cursory glance at the history of its human rights bodies, including the new Human Rights Council, will show.

What makes far more sense than working for the creation of a world-state is to continue the process of cooperation between liberal democratic states. Slaughter has suggested something along these lines, arguing that the development of “global government networks” is, and should be, a means of strengthening global governance. State agencies already interact with one another in a number of areas, e.g. trade, environment, defense and counter-terrorism, and finance, yet each remains accountable to its respective democratically elected government. Slaughter’s model includes the development of “vertical networks,” formal arrangements such as the WTO or those that exist in the EU in which states grant some measure of authority to a supranational organization.⁸⁰ They also include less formal “horizontal” interactions between courts, legislators, and civil servants in different states.⁸¹

These interactions include the development of common solutions to common problems as well as legislative and judicial policy-borrowing. Slaughter believes that discrete acts of cooperation create a new form of authority that arises from an expectation of reciprocity. Collective action problems can be resolved in ways that create the basis for further cooperation.

In essence, Slaughter is describing a model of social capital formation and accumulation between states, a phenomenon not anticipated by Tocqueville but one he surely would have recognized as an expression of the politics of scale. Judges, civil servants, regulators, and administrators remain accountable to their domestic constituencies, preventing the centralization of administration, while at the same time fashioning a transnational organizational culture, one that creates an expectation that actors will pursue interests rightly understood. For example, the US refused to commit itself to a treaty on the regulation of greenhouse gas emissions; yet, as Slaughter points out, environmental regulatory agencies in the US and the Netherlands have been able to create an international agency that provides “technical assistance to environmental agencies around the world.”⁸²

Slaughter’s networks contain a number of covenantal elements, as a comparison of her model of global governance with Elazar’s reveals. There is an essential realist quality to her concerns regarding the dangers of concentrated power and a recognition that multiple avenues of accountability must be in place to preserve political responsiveness, transparency, and diversity simultaneously. As a result, power is shared and divided within and between states; there is no administrative centralization at the global level. Finally, her model emphasizes a kind of federal liberty, in which collective action problems are solved in ways that reflect the unique values and priorities of separate political communities.

Some critics have questions about this last point, however. In his review of Slaughter’s book *A New World Order*, Kenneth Anderson wonders whether states can in fact maintain their uniqueness when political and judicial elites in one state look to policies and decisions in another for guidance.⁸³ He is particularly concerned about the way in which US courts have increasingly looked to European law for guidance. The use of European law in US court

opinions, he argues, is simply another means by which unelected judicial elites can amend the US Constitution by fiat rather than subjecting changes to the normal political process. This is not an unreasonable concern. Despite the convergence of values among liberal democracies, there do remain significant differences that reflect the unique constellation of priorities among states and the singular historical conditions that gave rise to those differences. For example, American intellectuals tend to idealize European social policy, and, as Sen notes, Europeans have done a much better job of dealing with poverty and income inequality. However, in the area of unemployment, he finds that the US has a better record. In the light of the social and psychological effects of long-term unemployment, he argues, "the massive level of unemployment constitutes at least as important an issue of inequality, in its own right, as income distribution itself."⁸⁴ With regard to helping individuals develop capabilities, there are failures enough to go around on both sides of the Atlantic. Similarly, in the area of rights, European states have certainly afforded their citizens a greater measure of economic rights and protections than the US. However, Americans have a significantly greater range of freedoms in a number of areas connected to expression and publication.⁸⁵

It seems unlikely that proponents of the judicial policy-borrowing so heavily criticized by American conservatives would be as quick to favor the incorporation of European standards of libel or prior restraint. One wonders whether Americans who favor the current scope of abortion rights would prefer to adopt stricter European standards on abortion. It would be quite ironic if conservative, activist federal judges in the US were to roll back *Roe v. Wade* by appealing to European limitations on the availability of abortion. In the arena of foreign policy, the limitations on executive power recommended by Adler and Fisher rely heavily upon singular characteristics of American constitutional and political history. A dialogue emphasizing the dangers of a strong state and the centralization of power is, in the long run, much more likely to convince Americans of the need to restrain executive power than an appeal to international or comparative law.

Slaughter indirectly addresses the important issue of diversity when she discusses the role of "legitimate difference" between political communities. States should grant significant deference to one another's approaches to laws and regulations except when they violate "a fundamental principle of domestic public policy."⁸⁶ In the US, this would mean the limits of deference would be the Constitution itself; recognition of foreign laws, regulations, practices, and judicial opinions is limited by the Constitution in the same way domestic statutes are limited by constitutional supremacy.

Of course, in some measure, this is circular reasoning. The Constitution limits the applicability of foreign laws or legal principles and yet justices themselves are interpreting constitutional principles by appealing to foreign laws and legal principles. But this conundrum already exists at the domestic level: just as there is no empirical legal obstacle to the federal

courts' reinterpretation of domestic constitutional principles, there is nothing to prevent a majority of justices on the federal bench from introducing foreign law, a point Anderson himself recognizes. But the solution to this problem, to the degree that there is a problem, is also domestic. Americans unhappy with the direction of constitutional jurisprudence can elect presidents who are more likely to appoint justices with a more conservative perspective or, as Anderson suggests, they can elect legislators willing to strip "the federal courts of jurisdiction over certain matters, thereby preserving the balance of democratic governance."⁸⁷

Liberal wars and the liberal peace: creating a positive sum global order

Liberals have often accused realists of advocating an amoral approach to war. This is an exaggeration, one often arising from a confusion between empirical and normative aspects of realist theory. On an empirical level, realists recognize that agreements, laws, and goodwill are of limited value in the midst of war. One obvious solution to this problem is to use force as infrequently as possible and in the gravest of circumstances, a policy favored by the US military, but unfortunately not to the same degree by its civilian leaders.⁸⁸

I have already discussed one long-standing solution to the problem of liberal aggressiveness above: the development and maintenance of strong institutional obstacles to engaging in combat operations. Of course, the greater the threat, the more likely it is that even separated institutions will agree to military action. In addition, in the throes of an existential threat, *in bello* constraints are likely to be nearly irrelevant, regardless of regime type. On a relative basis, democracies do appear to pay more attention to international law, human rights standards, and the constraints of domestic laws in military operations that do not pose such serious threats. However, once their passions are aroused, democratic peoples can and will use almost any means to defeat an opponent. In the case of defending or expanding empires (this includes the US), they have even been willing to use tactics that border on genocide.⁸⁹ Dan Reiter and Allan Stam have shown that like all other regime types, liberal democracies do initiate wars, usually for reasons other than self-defense. (They are also more likely to win, a finding of great portent since it means that "democracy can now be advocated on realist as well as normative grounds.")⁹⁰

As the post-war settlement of 1918–19 reveals, liberal democracies are not immune from the temptation to enact a morally dubious form of victor's justice on a defeated opponent. However, they are capable of magnanimity arising from a broad view of self-interest once victory has been secured. This is not a trivial point. The international political system is always in transition as the relative power of states rises and falls. But, as G. John Ikenberry has argued, one of the most critical periods for determining the nature of the

world system tends to be “after major wars, as winning states have undertaken to reconstruct the post/war world.”⁹¹ George Modelski has gone so far as to argue for a punctuated equilibrium model of the evolution of the world system, with the punctuations being global war followed by a new world order created in its aftermath. In the modern period, victors have tended to be more liberal than their opponents, a fact which explains the general movement toward a more liberal world order.⁹² Whatever the merits of his larger evolutionary model, he does make a powerful case for the importance of these “macrodecisionary” phases of conflict and reconstruction.

Ikenberry argues that states that win wars have three choices: they can dominate defeated states, they can abandon them, or they can attempt to transform them in ways that serve their mutual interests through a remarkably covenantal process he refers to as “strategic restraint.” In the transformation process, a leading state seeks “to lock other states into a favorable set of postwar relations and establish some measure of restraint on its own exercise of power, thereby mitigating the fears of domination and abandonment.”⁹³ A lasting post-war order cannot ultimately be imposed by force; this would be enormously expensive.⁹⁴ Rather, it requires a perception that the new arrangements are reasonably just and that the stronger state will abide by its agreements, i.e. that it will in fact limit its ability to change its mind in ways harmful to other actors. Ikenberry believes that while democracies do not always limit themselves in this manner, they are more likely to do so. They are also more likely to have the domestic transparency that inspires some measure of confidence in other states.⁹⁵

Kegley and Raymond have also written eloquently on the importance of war-to-peace transition in constructing new global arrangements, and the normative principles they believe lead to the kind of durable order discussed by Ikenberry. Despite my disagreement with their characterization of realism, I close this volume by relying upon their profoundly covenantal approach to international ethics to illustrate principles of a covenantal foreign policy. Again, they do not refer to them as such, but the moral basis of their recommendations is consistent with the fundamental principles of covenant: that achieving a just and enduring covenantal peace requires a substantive component of *hesed*, or put more simply, that the best way to secure one’s own interests is to do good to others to the greatest degree prudence allows.

In the final chapter of *From War to Peace* we find what amount to twelve prescriptions – I would prefer to call them twelve “commandments” – for post-war transitions that can lead to more just *and* peaceful relations between states. I believe these prescriptions, only a few of which I will mention, apply equally well at the intrastate level as national groups attempt to reconcile their desire for peace with their desire for justice. For example, Kegley and Raymond argue that “victors should not ignore the passion for vengeance,” since doing so may lead to later hostile actions that can undermine a peace settlement.⁹⁶ At the same time, they must “avoid

taking revenge” by imposing the kinds of harsh terms imposed on Germany after World War I.⁹⁷ This means looking for shared interests and allowing the defeated party to contribute to the discussion of what the settlement should look like. There are realist components to their prescriptions as well. “Victors should be prepared to use military force after the war ends,” since aggrieved opponents may attempt to undermine whatever agreements have been made. In sum, those who construct the post-war order must go as far as possible in accommodating defeated parties, but not beyond. Knowing where to draw lines between accommodation and capitulation is a matter of prudence and skill, not subject to universal rules or sophisticated academic models.

All Kegley and Raymond’s prescriptions come back to what they refer to as “the Golden Rule,” that familiar refrain of reciprocity based upon the universalization of self-interest, i.e. self-interest rightly understood.⁹⁸ The liberal argument, they believe, can be summarized by a passage in the New Testament, Matthew 7:1–2: “Men will pay you back with same measure you have used with them.”⁹⁹ Yet they also recognize the reality that is at the heart of the tragic nature of politics: the rule may be true on a general level, but there are important and lethal exceptions that require states to continue to have recourse to arms.

Kegley and Raymond dislike many of the precepts of realist thought.¹⁰⁰ In their view, it is liberalism rather than realism that emphasizes mercy, cooperation, and limits on power. However, their case studies actually reveal the convergence of the two theories. As I mentioned previously, Kissinger views the Congress of Vienna settlement as the quintessential example of realism at work, primarily because the victors did precisely what Kegley and Raymond prescribe: they included the interests of the vanquished in their discussions of the post-war order. The other most significant success they mention, the settlement that followed the end of World War II, was arguably as realist (as they use the term) as it was liberal. Helping to revive Germany and Japan directly served US interests, and George Kennan’s realist vision of containment, one that provided a limited role for the military and relied heavily on economic and cultural factors, was turned into a war of ideologies, something that makes little sense from within a realist framework.

The convergence of liberal and realist principles in covenantal thought reflects the importance of a central principle of covenant: the importance of recognition. In one sense, Fukuyama is correct: recognition matters. Every individual is potentially a participant in the covenantal order. If the ethical basis of that order is grounded in a tradition emphasizing capabilities, i.e. if we are searching for the best way to help people have the ability to choose lives they value, then we must accomplish two other things. We must maintain the independence of those regions that have made significant strides in this direction, and we must do our very best to expand the number of regions which ally themselves with this tradition. I hope I have shown why

the latter ultimately cannot depend upon violence and coercion, since covenants are fundamentally about choice. The former, tragically, may require violence. This is because there remain powerful individuals and groups for whom isothymia, the principle of equal recognition upon which Fukuyama's thesis rests, is not nearly enough; they want more and are willing to fight for it if necessary.

These two requirements can only be mediated by prudence which, in turn, requires a return to virtue as the basis of ethical practice. Modern ethics was developed in a period of intellectual history influenced by caricatures of Newtonian mechanics. As I noted above, a more apt basis for understanding ethics is found in the organic and biological realms. For living things must always mediate between extremes that result from changing conditions. As Robert Axelrod and Thomas Schelling have shown, an evolutionarily stable strategy is always a balancing act, an expression of tit-for-tat that recognizes the dangers of subjugation or even annihilation by competitors as well as the enormous benefits that result from cooperation. On the whole, consistent application of Kantian categories or repeated acts of self-interest not rightly understood are both likely to lead to the former. Yet the nature of collective action problems is such that the first step toward the strategy of cooperation, what Axelrod refers to as the "being nice" strategy, is a difficult one to take.¹⁰¹ It cannot arise from reason alone; it is an outgrowth of habituation guided not by rationality per se, but *kata ton orthon logon*. Covenant as a long-standing tradition in human society has contributed to "cultures of cooperation" which have benefited materially and politically because of their prudential ability to cooperate in larger and larger social units, while minimizing their vulnerability to free riding and other forms of "cheating." In this sense, covenant reflects processes and practices central to the history of human development itself. At the end of "the end of history," the prudential ability to navigate between patterns of defection and patterns of irresponsible credulity is more important than ever.

Conclusion: covenantal ethics and foreign policy

When traveling in the Negev desert some years ago, I saw in the distance a number of pits dug into the sand, each with a small shoot planted in the middle. I asked a local resident about them, and he explained to me that each of these pits, known as "microcatchments," allows enough water to collect for one tree to survive in the harsh desert conditions. Elazar describes the covenantal polity in similar terms. Throughout the millennia, civilization has been inconstant and violence ubiquitous. Yet covenantal peoples have survived in pockets to help rebuild after catastrophes made by human hands. They have flourished by eschewing conquest, comparatively speaking, in opposition to the conventional wisdom throughout history that placed a premium on power and the ability to project it at will for one's own gain. These commonwealths were not blind to the existence of evil. Because

of its presence, they understood, at least in their origins, that power had to be limited domestically and internationally. Nor have they been blind to the existence of tragedy in history; but it is not the tragedy of Sisyphus. It is redemptive tragedy, suffering that leads to the possibility within history of the transcendence of evil.

The covenantal polity, by necessity and by principle, cannot create the good world order by force. It must persuade other nations and peoples that it is a model to be followed and it can only do that if its own house is in order. This means that its people must be committed to federal liberty which involves respect for the lives and dignity of human beings not because it is rational in some a priori sense, but because it is the best way to live consequentially.

Liberalism strayed from its origins at a very early point, leaving behind the assumptions of transcendence that allowed it to integrate interests and the good. The split between utility and right was fatal to this integration. When contemporary neo-Kantian liberals have attempted to revive the synthesis, it has been on the basis of natural liberty that cannot secure the place of a humanistic ethic or the rights with which it is concerned. Realists, ironically, began with some of the same Kantian assumptions which made politics and right incommensurable. As a result, political goods could only be achieved by contracting with the diabolical, hardly a promising commencement for securing ethics. Morgenthau's belief, for example, that evil was sometimes required to achieve good and that all political action inherently entailed entering the realm of evil, highlights this problem.

The commonwealth described by Elazar is founded upon vastly different premises. Whatever its intellectual origins, its social origins are found in Jerusalem (as well as Rome, Geneva, and Mecca) rather than Athens. Unlike other classical cultures, Jewish culture never disdained commerce or manual labor. Unlike many Athenian intellectuals, Hindu Brahmins, or monastic priests, rabbis taught and labored "in the world" simultaneously. In addition, the Tanach is rife with consequentialist prescriptions; yet they can hardly be described as lacking in transcendence. Individual interests were strongly circumscribed by prohibitions on inappropriate desire and by equating the good with seeking justice for "the widow and the orphan." The revival of Tanach theology in the fifteenth century meant that the Church could again prescribe an ideal social order that combined the sacred and the mundane. On this point, Weber was absolutely correct. Early classical liberal theorists, drawing on these lessons and the culture they had produced, recognized the need for limits on interests, turning to natural law as a means of securing these limits. Late liberals and many realists have not managed to retain this synthesis, however, focusing on one side or the other, and losing both in the process.

Should liberal states seek to return to the commonwealth ideal, they would consider their interests in terms as generous as prudence would allow. They would recognize the benefits of being slow to anger and of remaining

militarily uninvolved in matters that do not affect their direct interests unless there is broad agreement that intervention is necessary. There is a great deal to be said ethically for minding one's own business when it is at all possible to do so. However, with regard to doing good, and to being concerned with human rights, with material provision, and with all the goods that international covenants seek to ensure and never can in a world mired in "history," they should consider interests in the broadest terms. Liberal societies are at an advantage over illiberal ones because freedom allows for the harnessing of the resources of civil society. Weber's charismatic element is necessary to prevent the iron cage from triumphing. Charisma, however, as its Greek origin connotes, is about the gifts of individuals who come together to use them for a greater good, a good defined within the bounds of *charis* or *hesed*, charity that reaches beyond self-interest narrowly construed.¹⁰²

Liberal states can only use moral persuasion if they keep their own covenants and if they are not engaged in inappropriate violence. The real power of liberal states, particularly those committed to covenantal principles, can never be military. Their power is found in the ability to persuade peoples in hierarchical states, peacefully but adamantly, that there is a better way of life that they ought to acquire as soon as it is feasible to do so. That acquisition, however, ought to be a matter of choice. Should violence for the purpose of preservation or to prevent genocide become necessary, liberal states ought to be circumspect as to how they treat their enemies. As Kegley and Raymond point out, the ethical dimensions of forgiveness as policy are profound and become the basis for future conflict or future peace. In a remarkable prescriptive statement more appropriate to a covenantal than a late liberal perspective, they write: "So long as one is not dealing with an utterly ruthless, depraved opponent, restraint and a readiness for conciliation can evoke gratitude and set in motion a positive spiral of tension-reducing reciprocation."¹⁰³ Even this may be a little pessimistic. It is difficult to imagine more ruthless enemies than wartime Germany and Japan, yet Allied policy (save that of the Soviets) followed this moral prescription quite well. The common effort to rebuild Germany and Japan after the war, and the use of American resources to help bring that about, are both examples of self-interest rightly understood in international politics. Both America's interests (broadly conceived) as well as a public transnational good were served by these acts. Trade embargoes or military action against nations that are actively engaged in expansionism, or that threaten the open flow of goods and information, may make sense. Embargoes upon nations like Cuba which, in the post-Cold War period, cannot possibly threaten free states and whose hierarchy could only be undermined by infusions of capital, do not.

The future of covenant in the new world order

What is the likelihood of nations moving in a covenantal direction? It is not inevitable that the emerging world order will evolve towards covenantal

federalism. The temptation of social engineering and hierarchical domination is powerful; covenantalism is the exception and not the rule in history. As Tocqueville understood, the temptation to rationalize domination for an ostensible good in liberal states is also powerful. The prudence required to maintain the precarious balance between shared values and decentralized administrative power must be carefully cultivated. There is little likelihood that the current liberal philosophical synthesis, described so aptly by Spragens, can continue to provide the pedagogical environment necessary to ensure that balance in the future. Neither "history," Kantian interests, economic forces, nor science and technology, stand as guarantors of the covenantal world community.

Yet we need not believe with Weber or Schumpeter that the future will be characterized by enervating bureaucratic instrumental rationality. The iron cage is possible but not inevitable. Unlike in other regime types, the public in liberal states do have a greater capacity to examine their practices in order to improve them and then demand that those improvements become policy. And as social science research begins to focus more and more on the relationships between ethical practice, economic success, and social pathologies, it is possible that our views of the morally autonomous individual will change. Just as the hard shell conceptualization of the state in neorealist theory is countered by the emphasis on non-state actors in liberal theory, the hard shell concept of the liberal individual must be replaced with an understanding more amenable to both the empirical and normative conceptions that account for the increasingly decentered character of international relations.

As the world becomes smaller and events become more visible globally, the inherent desire to construct institutions that can unite us will become more powerful. As Dostoyevsky showed through "The Grand Inquisitor," the temptation to choose security over freedom in the face of uncertainty is sometimes overwhelming. Federal liberty, with its restrictions on absolute autonomy, requires more of us than is at times comfortable. The decision to provide for the widow and the orphan, or for that matter the scholar and the artist, is not obvious to those concerned only with "preferences." Isolationism is not just a hazard of foreign policy: it can enervate individuals as well and prepare them for despotism, one of Tocqueville's central concerns. The shift from federal to natural liberty has helped make the iron cage more likely, for federal liberty is the only kind that will last. Whether or not liberalism evolves in a covenantal direction is largely a function of whether or not citizens in liberal states are persuaded that this is the case.

Notes

Introduction

- 1 Fukuyama 1986, p. 717.
- 2 Ibid., pp. 717–18.
- 3 Ibid., p. 731.
- 4 Fukuyama 1989.
- 5 Fukuyama 1992.
- 6 Rosenthal 1995, p. 2.
- 7 Of course, John Gray has begun to make the argument that this is not at all the case (see Gray 2002). However, if anything, Gray's anti-humanist arguments remind one of the reasonableness of liberal humanism and the virtues of cosmopolitanism. See Daniel Postel's excellent comments on Gray's anti-humanist positions in Postel 2003. Despite the Monod-esque quality of his views, Gray continues to posit a version of the good that centers on the need for tolerance (see for example Gray 2003).
- 8 See Kegley and Raymond 1999, pp. 247–8. In the final chapter of this book on ending conflict, the authors characterize realism as a theory which holds that "Harsh punishment is the best way to keep a defeated enemy permanently down so it cannot rise again in retaliation." They also argue that "nihilistic versions of this theory" would not have predicted the long peace that ensued after the Congress of Vienna. However, their critique sidesteps the fact that this settlement serves as a, perhaps *the*, paradigmatic example of the prudence of realist statecraft. Henry Kissinger's work *A World Restored* (Kissinger 1973) is in fact a tribute to the wisdom of this settlement.
- 9 Elazar 1996a, p. 28.
- 10 MacIntyre 1988. See especially Chapters 1 and 17.
- 11 On these two strands of thinking, see Berkowitz 1999, p. 106.
- 12 Gray 1995a, p. 123.
- 13 Spragens 1990, p. 43.
- 14 Ibid., p. 47.
- 15 See MacIntyre 1984, pp. 43–7; 1975. However, Berkowitz notes that there has been a fierce debate over the degree to which this separation actually exists: see Berkowitz, 1999, pp. 106–10.
- 16 Kuhn 1970.
- 17 Ibid., pp. 67–8. For a book-length discussion of the merits of using paradigmatic language in IR theory, see Elman and Elman 2003.
- 18 Henkin 1979, pp. 320–1; Arend and Beck 1993.
- 19 Hyland 1994, pp. 405–33. See especially pp. 427–30.
- 20 Elazar 1995, p. 22.
- 21 Elazar 1996a, p. 3.

- 22 Nussbaum and Sen 1993, pp. 1–6. See also Sen 1999, pp. 72–86.
- 23 Drèze and Sen 1989.
- 24 *Ibid.*, p. 278.
- 25 Elazar 1996a, pp. 73–9.
- 26 I draw here on a binary developed by Koskenniemi in Koskenniemi 1989.
- 27 *Ibid.*

1 From covenants to interests: the evolution of liberalism

- 1 Doyle 1997, p. 285.
- 2 Russett 1994.
- 3 Fukuyama 1992.
- 4 Kant 1985.
- 5 See Ray 1995. See also Weart 1998; Rummel 1983; Maoz and Russett 1996. For critiques of the thesis, see Farber and Gowa 1997; Gowa 1999; Spiro 1994.
- 6 Moravcsik 2003; see also Moravcsik 1997.
- 7 Moravcsik 2003, pp. 188–9.
- 8 *Ibid.*, pp. 168–9. See his comments on this point in note 14.
- 9 Indeed, John Gray views this emphasis on the “denuded” individual as one of the key flaws of contemporary (meaning post-1971) liberal theory, referring to John Rawls’ version of the person as a “cipher.” See Gray 1995a, p. 4.
- 10 On these points, see Kegley 1995, p. 4; see also Zacher and Matthew 1995. However, see Moravcsik’s characterization of Zacher and Matthew’s claim that liberalism is an approach rather than a theory in Moravcsik 1997, p. 515.
- 11 Slaughter 1995.
- 12 *Ibid.*, p. 511.
- 13 Doyle 1997, p. 207.
- 14 Esping-Andersen 1990, p. 23.
- 15 Ruggie 1982, 2004.
- 16 See Urbinati’s discussion of the liberal socialism of N. Bobbio in Urbinati 2003. See also P. Gobetti’s discussion of liberal socialism and his belief that Gramsci would have a significant role to play in bringing about liberal revolution in Gobetti 2000.
- 17 Ruggie 2003.
- 18 Zacher and Matthew 1995, pp. 117–18. See also Gray 1986, p. x.
- 19 Rawls 1971.
- 20 Rawls 1999.
- 21 Zacher and Matthew 1995, p. 110; Moravcsik 1997, p. 547. However, also see pp. 536–7.
- 22 Slaughter 2004b.
- 23 Keohane 1984, p. 12.
- 24 For the use of liberalism in this sense, see Wallace 2000. On p. 56, Wallace uses the term “embedded liberalism” to describe commitments to social welfare and democracy by states in Western Europe.
- 25 Waltz 1959.
- 26 Morgenthau 1974, pp. 41–2.
- 27 Gramsci 1994.
- 28 See Sandel 1998; Taylor 1989; MacIntyre 1984, 1988, and 1995; Walzer 1994, 1983. F. Fukuyama posits a neoliberal form of communitarianism in Fukuyama 1995.
- 29 Hirschman 1977, pp. 32–3. Though Hirschman is not a communitarian, his understanding of the transition in the perception of what interests entail leads directly to the communitarian critique.

- 30 Madison 1961a, p. 322.
- 31 Hirschman 1977, p. 32.
- 32 Nietzsche 1968a, pp. 128–31.
- 33 Okin 1991. See also Pateman 1983; Tickner 2001; Sylvester 1993. On the issue of unequal representation in ostensibly participatory representative political systems, see Gutmann 1980.
- 34 Grant 1991.
- 35 Wendt 1992. See also Wendt 1999. Of course, Ruggie fits within this category as well. Postmodernist approaches may involve elements of constructivism as well as Marxian critical theory. For example, see Barkawi and Laffey 1999.
- 36 Huntington 1996; Mearsheimer 1994/5, 1990.
- 37 See Mann 2004, p. 185 and p. 340. With regard to the most recent war with Iraq, Mann also points out that Brent Scowcroft, Lawrence Eagleburger, and James Baker, all of whom had served George H. W. Bush, publicly opposed the war on realist grounds (pp. 336–8). See also Mearsheimer and Walt 2003.
- 38 Esping-Andersen 1990, pp. 26–9. See also Sen's discussion of the varying degrees to which social protections exist even in economically advanced liberal democratic states in Sen 1999, pp. 154–5.
- 39 Weber 1978, pp. 24–5.
- 40 Weber 1992, pp. 181–2.
- 41 *Ibid.*, p. 182.
- 42 Gray 1995a, p. 8.
- 43 Wolfe 1989, p. 2.
- 44 Tocqueville 1988, pp. 506–8.
- 45 *Ibid.*, pp. 509–13.
- 46 Manent 1996, pp. xiii–iv.
- 47 Marcuse 1966, p. 125. The idea that ethics and epistemology are closely related is also an element of some forms of Reformed theology. See Harris 1998, pp. 233–77.
- 48 Macedo, *Liberal Virtues: Citizenship, Virtue, and Community in Liberal Constitutionalism*, Oxford: Clarendon Press, 1990; Galston 1991, especially Chapter 10; Galston 2002, p. 127; Elshain 1995 and Fukuyama 1992. See also P. Berkowitz's excellent account of the often ignored narrative of virtue in the history of liberal theory in Berkowitz 1999/
- 49 Erskine 2000. As the title of her article suggests, Erskine's cosmopolitanism is distinctive from more impartialist forms.
- 50 The cosmopolitan side of the argument includes: Lu 2000; Pogge 1992; Donaldson 1992; Rawls 1971 and 1993. But see also his more recent *Law of Peoples* (Rawls 1999), which seems to move in a more contextualist direction and away from impartialism. See also Beitz 1979; Nussbaum 2000, 1996, and 2004. However, Nussbaum also has particularist concerns: see Nussbaum 2003. For an example of a (*soi disant*) liberal critique of Nussbaum, see Appiah 1997. On pp. 623–4 in particular, he argues against the notion that the state is a morally arbitrary political designation.
- 51 With regard to communitarians, here again I would list Sandel, Walzer, Taylor, and MacIntyre among the usual suspects, most of whom, it should be noted, would reject this label. Communitarian critiques of cosmopolitanism abound, but a representative collection might include communitarian works cited above, such as Sandel 1998, and MacIntyre 1984, 1988, and 1995. This last article raises questions about interpreting MacIntyre's view of patriotism as one that is uncritical and incapable of appealing to values that transcend those of one's country. See also critiques of cosmopolitanism by C. Taylor, G. Himmelfarb, and M. Walzer, *inter alia* in Cohen 1996. For an understanding of the way "thickness" is used in much of the communitarian literature, see

- Geertz 1973. There are also any number of critical and feminist theorists who critique impartialist cosmopolitanism from perspectives similar to those found in communitarian works, e.g. Unger 1975 and Matsuda 1993. See also Unger 1975, p. 86 and Unger 1989.
- 52 Allen 2005, p. 15.
- 53 Two elements of Elazar's later work on covenantal politics concern me, though my concerns are quantitative rather than qualitative. Elazar's later work deemphasizes the political in favor of a greater focus on private civil society associations. Again, his earlier work on political culture was much more focused upon politics and the quality and character of administration than his later works seem to be.
- 54 Elazar 1996a, p. 2. For "Federalist 1," see Hamilton 1961.
- 55 Elazar 1984, pp. 96–7.
- 56 Elazar 1996a, pp. 1–2.
- 57 Elazar 1995, pp. 70–1.
- 58 *Ibid.*, p. 22.
- 59 Winthrop 1908, p. 239.
- 60 *Ibid.*, p. 238.
- 61 Fukuyama 1992, p. 326.
- 62 *Ibid.*, p. 222.
- 63 Elazar 1996b, p. 422.
- 64 See especially Walzer 1985.
- 65 Wildavsky 1984.
- 66 Elshtain 1995, pp. 30–6; Allen 2000; Cortina 2003.
- 67 Moore 1992.
- 68 *Ibid.*, p. 181.
- 69 Held 2004.
- 70 Held 2005.
- 71 Held 2004, p. 75. See also the chart of transnational and international institutions that operate together to achieve these goods (pp. 80–1), though he is more sanguine about some of these institutions, like the WTO, than I am.
- 72 Preamble of the *European Social Charter* (1961), p. 2.
- 73 Ruggie 2000.
- 74 See the *Charter of Fundamental Social Rights* (2000).
- 75 Engel 2004.
- 76 See, for example, Heinberg 1996. See also the *Living Wage Covenant* at United for a Fair Economy 2000. However, the Greens are also active in promoting a living wage politically.
- 77 Government of the Netherlands 2002, pp. 39–41. See also Bastmeijer December 2005.
- 78 Mandela 1994.
- 79 De Gruchy 2002; Stevens, 2004.
- 80 Wilson's Scottish Presbyterian background, with its heavy emphasis on covenant, remained one of the great influences on his political beliefs throughout his life. See, for example, Mulder 1978, p. 274.
- 81 Babbitt February 1996.
- 82 Gore 1992.
- 83 See, for example, *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*.
- 84 Crawshaw *et al.* 1995. With regards to other medical and public health uses of covenantal theory and the covenant/contract dichotomy, see also May 1983 and 1977; Landis 1993, pp. 628–41; Cassell 1996; Fins 1999; Lebacqz 2004; Ong 2005; and Ramsey 1970. Ramsey specifically relies upon theological lan-

- guage to ground the ethic of his theory, citing the New Testament Greek equivalent of the Hebrew *besev* or “covenant lovingkindness” *agape* (p. xiii).
- 85 Ring 1995, p. 1265.
 - 86 O’Neill 1994.
 - 87 Miller 1990.
 - 88 *Ibid.*, p. 123.
 - 89 Brueggemann 1980, p. 1099.
 - 90 Brinig 1998 and 2000.
 - 91 Elazar 1996a. Elazar discusses these oath societies in some detail. On Germany, see pp. 73–9. On Holland, see pp. 102–5. On Switzerland, see pp. 100–2. On Scandinavia, see pp. 107–23. On East Anglia and Scotland, see p. 113. On other areas of Britain, see pp. 125–31.
 - 92 B. Thompson, *Humanists & Reformers: A History of the Renaissance and Reformation*, Cambridge, UK: W. B. Eerdmans, 1996, p. 373.
 - 93 For an excellent account of the formation of this synthesis in law, see Berman 1983.
 - 94 Garraty and Gay 1972.
 - 95 Elazar argues that the shift from covenant to organic ecclesiastical and then political governance is synonymous with the medieval period. See Elazar 1996a, pp. 40–1.
 - 96 Putnam *et al.* 1993, p. 127.
 - 97 Elazar 1996a, p. 44.
 - 98 Pros Ebraious 1949, 10: 25.
 - 99 Elazar 1996a, p. 44.
 - 100 Von Bekkum 2003, pp. 234–5.
 - 101 Calvin 1939, IV.xx.2, p. 203.
 - 102 Calvin 1966, IV.xx. 31, p. 675.
 - 103 *Ibid.*, pp. 656–7.
 - 104 See Walzer 1966. But note his distinction between Calvinist theology and ideology.
 - 105 Skinner 1978, p. 240.
 - 106 Cited in Garraty and Gay 1972, p. 529.
 - 107 Cited in Skinner 1978, p. 215.
 - 108 Stevens 1996, p. 424.
 - 109 Kateb 1992, p. 9.
 - 110 Stone 1979, pp. 149–52.
 - 111 *Ibid.*, p. 149.
 - 112 *Ibid.* Emphasis added.
 - 113 *Ibid.*, p. 152.
 - 114 *Ibid.*, p. 225.
 - 115 Mendelson, and Crawford 1998, p. 401.
 - 116 *Ibid.*
 - 117 *Ibid.*, p. 226.
 - 118 Lilburne 1916.
 - 119 Quoted in Stone 1979, p. 226. See also Hughes 2003, p. 50.
 - 120 Mendelson and Crawford 1998, p. 399.
 - 121 Laslett 1984, p. 222.
 - 122 Keetley and Pettegrew 1997.
 - 123 Keetley and Pettegrew 1997, p. 3.
 - 124 Tocqueville 1899, p. 29.
 - 125 Cotton 1656. Emphasis added.
 - 126 Tocqueville 1899, p. 73.
 - 127 *Ibid.*, p. 72.
 - 128 Madison 1961a, p. 83.

2 The Enlightenment and the Lockean transition

- 1 Cited in Jaki 1980, p. 115.
- 2 Henry 2004, p. 23.
- 3 *Ibid.*, p. 12.
- 4 *Ibid.*, p. 23.
- 5 Lutz 1984, p. 196.
- 6 Garraty and Gay 1972, p. 701.
- 7 Henry 2004, p. 23.
- 8 Jaki 1980, p. 90.
- 9 See for example Westfall 1980. A more popularized form of intellectual biography that deals with the interaction of religion, alchemy, and science in Newton's life is White 1999.
- 10 Goldish 1998, p. 4.
- 11 See Newton 1998b, p. 41.
- 12 Newton 1998a, p. 167.
- 13 Jaki 1980, p. 90.
- 14 *Ibid.*
- 15 *Ibid.*
- 16 Kearney 1971, p. 196.
- 17 *Ibid.*
- 18 Spragens 1981, pp. 75–94. See also the discussion of this phenomenon in Spragens 1990, pp. 43–6.
- 19 Pascal 1948, paragraph 402, p. 171. Pascal writes: “Grandeur de l’homme dans sa concupiscence même, d’en avoir su tirer un réglemeⁿt admirable, et d’en avoir fait un tableau de la charité.”
- 20 Vico 1968, paragraphs 132 and 133, p. 62.
- 21 See Zacher and Matthew 1995, p. 112; and Doyle 1997, pp. 216–26. Fukuyama, for example, sees Locke as the founder of the Anglo-Saxon variant of liberal IR theory.
- 22 Hobbes 1997, Book II, Chapter 26, section 4, p. 134.
- 23 *Ibid.*, Book II, Chapter 26, section 7, p. 144.
- 24 Spragens 1981, p. 209.
- 25 Dunn 1969, p. xi.
- 26 Locke 1960, Chapter 3, paragraph 21, p. 14.
- 27 On this point see Elazar 1995.
- 28 Examples of limitations on monarchs included a requirement that they should not acquire numerous horses (necessary for foreign wars), treasure, or wives (a means of establishing alliances). These provisions were, unfortunately, ignored almost from the very beginning of the monarchical period. See Walzer 1985, pp. 127–9.
- 29 Locke 1960, Chapter 3, paragraph 19, p. 13.
- 30 *Ibid.*, Chapter 3, paragraph 6, p. 5.
- 31 *Ibid.*, Chapter 7, paragraph 90, p. 50.
- 32 On reason and faith in Locke's thought, see Forster 2005, p. 14 and pp. 84–127. Regarding interests, see Hirschman 1977, p. 53.
- 33 On the evolution of Locke scholarship and the role of religion in particular, see Forster 2005, pp. 2–39.
- 34 Pangle 1988, p. 274.
- 35 *Ibid.*, p. 275. Emphasis in the original.
- 36 *Ibid.*, p. 143.
- 37 *Ibid.*, p. 145.
- 38 Dienstag 1996, p. 501.
- 39 Locke 1934, Chapter 12, paragraph 3, pp. 329–30.

- 40 Dienstag 1996, p. 501. For another view of the role of “workmanship” in Locke’s thought, see Tully 1980.
- 41 Locke 1960., Chapter 5, paragraph 32, p. 20.
- 42 *Ibid.*, Chapter 5, paragraph 34, p. 20.
- 43 Locke 1965, pp. 86–7.
- 44 Pros Timotheon A. 1949, p. 490. Verses 6:17–19 read as follows: “tois plousiois en tô nun aiôni paraggelle mê upsêlophronein mêde êlpikenai epi plouto adêlotêti all epi theô tô zonti to parechonti êmin panta plousiôs eis apolausin agathoergein ploutein en ergois kalois eumetadotous einai koinônîkous apothêsaurizontas eautois themelion kalon eis to mellon ina epilabôntai tês ontos zôês.”
- 45 Pangle 1988, p. 132.
- 46 Locke 1960, Chapter 5, paragraph 32, p. 20.
- 47 Pangle 1988, p. 199.
- 48 Hooker 1888, Book I: viii, p. 86.
- 49 Pangle 1988, p. 199.
- 50 Sotah 12a 1994.
- 51 Pangle 1988, p. 153. But see Pangle’s discussion of this issue on pp. 21–4.
- 52 Donald Lutz’s study is instructive on this point. Of all citations in the founding period literature (1760–1805), Deuteronomy is cited most because of its prevalence in pro-revolutionary religious pamphlets. See Lutz 1984, p. 192. Cf. p. 194.
- 53 Locke 1960, Chapter 12, paragraph 147, p. 83.
- 54 Lutz 1984, p. 194.
- 55 On the influence of Pufendorf on the founders, see Lutz 1984, p. 193. Hirschman cites Pufendorf’s influence on Locke especially with regards to the doctrine of inconstancy. See Hirschman 1977, p. 53.
- 56 Grotius 1962, p. 38.
- 57 *Ibid.*, pp. 48–50.
- 58 *Ibid.*, pp. 14–15.
- 59 *Ibid.*, p. 193.
- 60 Forde 1988, p. 643.
- 61 Morgenthau 1974, p. 41.
- 62 Pufendorf 1991, p. 35.
- 63 *Ibid.*, p. 36.
- 64 *Ibid.*, p. 168.
- 65 Lutz 1984, p. 196. Locke is cited frequently in revolutionary literature during the 1760s and 1770s. After that, his influence drops off dramatically.
- 66 Shain 1994, p. 25.
- 67 Witherspoon 1990, p. 203. Emphasis added.
- 68 Trenchard and Gordon 1965, p. 89.
- 69 Tocqueville 1988, p. 527.
- 70 Ruddy 1975, pp. 42–3.
- 71 Kant 1985, p. 99.
- 72 *Ibid.*, p. 98.
- 73 *Ibid.*, p. 114.
- 74 *Ibid.*, p. 113.
- 75 *Ibid.*, pp. 107–8.
- 76 Jaki 1980, p. 119.
- 77 MacIntyre 1984, p. 56.
- 78 Jaki 1980, p. 20.

3 Positivism, idealism, and imperial power

- 1 Bentham 1962a, vol. II, p. 501.
- 2 Wolin 1960, p. 292.

- 3 On the issue of reward, punishment, and justice, see Smith [1759] 2002, Part II: 1–2, pp. 79–83.
- 4 Harpham 1984, p. 767.
- 5 Smith [1776] 1998, Book IV: 8, pp. 735–58.
- 6 On these duties and the debate over Smith's views on the state, see Walter 1996.
- 7 Smith [1776] 1998, Book I: 2, p. 14.
- 8 On this point, see Wolin 1960, pp. 330–1.
- 9 Smith [1776] 1998, Book IV: 3, p. 561.
- 10 *Ibid.*, p. 558. Smith goes so far as to describe the behavior of merchants and manufacturers as “mean rapacity.”
- 11 *Ibid.*, Book IV: 8, pp. 735–58.
- 12 Bentham [1789] 1948, p. 127.
- 13 Bentham 1962c.
- 14 *Ibid.* Bentham's propositions can be found on pp. 546–7, followed by an in-depth discussion of each on pp. 547–60.
- 15 Vagts and Vagts 1979.
- 16 Turner 2005, p. 129.
- 17 But see Van Den Dungen 2000. On the distance between the theory and practice of pacifism by Bentham and his followers, see Turner 2005.
- 18 Wolin 1960, p. 348.
- 19 Bentham 1962b, vol. IV, pp. 44–5.
- 20 Wolin 1960, p. 348.
- 21 Bentham 1962b, vol. IV, p. 39.
- 22 Foucault 1994 and 1977.
- 23 Berkowitz 1999, p. 148.
- 24 Gray 1995b, p. 142.
- 25 MacIntyre 1984, pp. 63–4.
- 26 Berkowitz 1999, pp. 155–8.
- 27 See Mill 1941, p. 134.
- 28 McPherson 1977, p. 46.
- 29 Mill 1910, p. 9.
- 30 Mill 1965, p. 323.
- 31 *Ibid.*, p. 327.
- 32 On this point, see Tunick 2005.
- 33 Mill 1978, p. 10.
- 34 Berkowitz 1999, p. 167.
- 35 For an excellent and detailed description of this shift in views within liberalism, see Pitts 2005.
- 36 Hobson, *Imperialism: A Study*, New York, 1902, p. 64.
- 37 Schumpeter 1955, p. 97.
- 38 Peatling 2004, pp. 390–1.
- 39 Green's relationship to Hegel is a subject of considerable controversy. See De Sanctis 2005, pp. 1–3. On Green's work in general, see Harris and Morrow 1986. See also Tyler 2006 and Carter 2003.
- 40 Simhony 2003, p. 273.
- 41 *Ibid.*, p. 284.
- 42 On the issue of Green's connection to Mill, see Weinstein 1993. On positive liberty, see Berlin 1969.
- 43 De Sanctis 2005, pp. 3–6.
- 44 On the nuances of the Idealists' use of Hegel, see Brown 2002, pp. 457–69.
- 45 Simhony 2003, pp. 284–5.
- 46 John Rawls has presented one of the best-known critiques of perfectionism in Rawls 1993. But see a response to these critiques in T. Hinton, “The perfection-

- ist liberalism of T. H. Green," *Social Theory and Practice*, vol. 27, no. 3, July 2001, pp. 473–99.
- 47 Morefield 2004.
- 48 *Ibid.*, pp. 37–9.
- 49 *Ibid.*, pp. 41–2. However, Morefield notes that Green himself actually rejected the use of evolutionary theory as an explanatory variable (see note 78 on these pages).
- 50 *Ibid.*, pp. 48–52.
- 51 Rich 1995, p. 79.
- 52 *Ibid.*, p. 80.
- 53 Long and Wilson 1995; Wilson 1998; Jones 1998.
- 54 Quoted in Glennon March 2005, p. 956.
- 55 *Ibid.*
- 56 Carr 1964, pp. 42–3. See more generally Chapter 4, "The harmony of interests," pp. 41–62.
- 57 I am indebted to an anonymous reviewer for pointing this out to me. Carr does mention Cobden in the context of discussing the view of many in the interwar period that war was less likely than ever. *Ibid.*, p. 36.
- 58 Morefield 2004, p. 80.
- 59 Rich 1995, p. 83.
- 60 *Ibid.*, p. 89.
- 61 Rich *Ibid.*, p. 91.
- 62 Ferguson 2004.
- 63 *Ibid.*, p. 1.
- 64 Johnson 1992, p. 22.
- 65 Morefield 2004, pp. 154–62.
- 66 *Ibid.*, pp. 136–7.
- 67 Morefield uses this term in her critique of Zimmern and Gilbert Murray: *ibid.*, p. 138.
- 68 Peatling 2004, p. 388.
- 69 Zimmern 1951.
- 70 *Ibid.*, p. 680.
- 71 See Koskenniemi 2002, p. 416.
- 72 Johnson 1992, pp. 26–7 and 346–52.
- 73 Wilson 2001. See in particular Chapter 3.
- 74 See Charles Beitz's excellent discussion of the indeterminacy of the self-determination principle in Beitz 1979, pp. 93–6.
- 75 Morgenthau 1974, p. 54.
- 76 See Lansing 1921.
- 77 Kissinger 1994, p. 232.
- 78 *Ibid.*, p. 239.
- 79 Anghie 2005, p. 133.
- 80 Fitzpatrick 1990.
- 81 Koskenniemi 2002, pp. 173–4. See also his comments regarding the general enthusiasm regarding internationalism during this period.
- 82 Morgenthau 1974, pp. 11–40.
- 83 MacIntyre 1984, pp. 71–2.
- 84 *Ibid.*, p. 69.
- 85 *Ibid.*, p. 73.
- 86 *Ibid.*, p. 77.
- 87 Koskenniemi 1989, p. 131.
- 88 *Ibid.*, pp. 226–8.
- 89 Burley 1993, p. 211.
- 90 *Ibid.*, p. 213.

- 91 Koskenniemi 2002, p. 417.
 92 Weber 1958b, pp. 139–40.
 93 Ibid., p. 142.
 94 Ibid., p. 143.

4 Deconstructing liberalism

- 1 I use this term in the broadest sense as an ideal type to include critics of liberalism concerned with the lack of social cohesion in liberal theory or policy.
- 2 See Ruget 2002; McGovern 2005; Shapiro 2005; and Almond 1988. But see also Johnson 1993.
- 3 Nietzsche 2000, p. 99.
- 4 Richter 1998, p. 255.
- 5 See MacIntyre's summation of Nietzsche's effects on the Enlightenment in MacIntyre 1984, p. 113.
- 6 This distinction, of course, entails the idea that society can be ordered in such a way that artificial distinctions are drawn between the realm of the state and the realm of the individual, with the former being about law and rule, while the latter is the proper realm for creativity and experimentation. Nietzsche would have none of this, arguing that the creative force of man (literally) is central to all thought and cannot be regulated or compartmentalized within the purely private. This idea can be seen, to some degree, in Arendt's notion that politics ought once again to become an agonistic art, a competition of aesthetic (rhetorical) power, as it was in Periclean Athens. See, for example, Arendt 1958, pp. 199–212.
- 7 See Nietzsche's critique of English moral hypocrisy on this point in Aphorism 5, "Skirmishes of an untimely man", in Nietzsche 1968b, pp. 515–16. He states, "In England, one must rehabilitate oneself after every little emancipation from theology by showing in a veritably awe-inspiring manner what a moral fanatic one is."
- 8 Aphorism 26 in "Maxims and arrows", in Nietzsche 1968b, p. 470. He means here that all system building in pursuit of eternal verities reveals weakness of spirit.
- 9 Spragens 1981, p. 291. Emphasis added.
- 10 Zacher and Matthew 1995, pp. 117–18.
- 11 Kegley 1995, p. 4.
- 12 Ibid. Emphasis added.
- 13 Kegley and Raymond 1999, p. 21.
- 14 Tibetans would undoubtedly add the fifth member, China, to the list.
- 15 Doyle 1997, p. 265.
- 16 Ibid., pp. 268–9.
- 17 Olson 1982, pp. 146–80.
- 18 Glendon 1991.
- 19 Indeed, it seems that in most articles and books on IR theory or democratization, the standard Fukuyama denouncement, usually appearing as a reference to "the end of history" somewhere at the beginning, has become *de rigueur*.
- 20 Fukuyama 1992, p. xi.
- 21 See the new Afterword in the 2006 reprint of *The End of History* (Fukuyama 2006b).
- 22 Fukuyama 2006a.
- 23 Fukuyama 1992, pp. 73–4.
- 24 Ibid., p. 327.
- 25 Ibid., pp. 160–1.

- 26 Nietzsche 1968b, Aphorism 12 in “Maxims and arrows,” p. 468. Nietzsche states, “Man does not strive for pleasure, only the Englishman does.”
- 27 Fukuyama 1992, p. 271.
- 28 *Ibid.*, p. 288.
- 29 *Ibid.*, p. 335.
- 30 Bloom 1987, pp. 151–4.
- 31 Stein 2001, pp. 496–7.
- 32 On the relationship between elite ideology and trade, see Howse 2002, pp. 99–101.
- 33 Spero 1990, p. 44.
- 34 See Charnovitz 2004.
- 35 *Case Concerning the Military and Paramilitary Activities in and against Nicaragua (Merits)*.
- 36 See Fassbender 2004. The number of states willing to violate Article 2(4) again and again has led several international law scholars to declare it dead. See Glennon 2005, p. 959.
- 37 See Arend and Beck 1993, Chapters 5–9, in which the authors list a multitude of examples of at least prima facie violations of Article 2(4) under claims of protecting nationals, humanitarian intervention, intervention in civil conflicts, and anticipatory self-defense.
- 38 Glennon 2001.
- 39 See 26 *International Legal Materials* 1346, 1987.
- 40 See Stein 2001, p. 504. But even here, the motivations behind US environmental restrictions was decidedly mixed. See Jones 2004, pp. 108–11. See also his treatment of the genetically modified beef controversy involving the US and the EU on pp. 111–12. In addition, there is some evidence that the WTO has improved its record on these issues. See Weinstein and Charnovitz 2001.
- 41 See Rohde 1998.
- 42 Barnett 2002.
- 43 Blokker 2000.
- 44 On hegemonic law, see Vagts 2001, pp. 843–8. See also Alvarez 2003. While it appears to be settled law as to whether the UNSC may act *ultra vires* in the face of express legal constraints (e.g. peremptory norms), it remains unclear whether the UNSC may act *ultra vires* in its use of implied powers, who determines whether or not it is acting in such a manner, and what to do about it if it is. See Orakhelashvili 2005 and Bowett 1994.
- 45 The arguable outlier being the exchange of one Chinese government for another.
- 46 Beitz 1979, pp. 71–83.
- 47 See Chapters 3 and 4 of Tesón 1997, and Tesón 1998, especially pp. 39–71.
- 48 See, for example Chapter 10 in De Wet 2004.
- 49 I draw here upon a similar example developed by Arthur Ripstein in his consideration of aggregate and individual harm at the domestic level. See Ripstein 2006.
- 50 Jaki 1980, p. 120.
- 51 MacIntyre 1984, p. 44. Nietzsche refers to this tendency of Kant to vindicate common wisdom as “Kant’s Joke.”
- 52 I use this term to define Weber because he draws directly from the Kantian noumenal–phenomenal dichotomy developing his own epistemic theories. This is further detailed in Chapter 5.
- 53 Strauss 1965, p. 43.
- 54 MacIntyre 1984, p. 46.
- 55 Donaldson 1992. Koskeniemi states that doctrines of rights, non-intervention, the public/private analogy found in domestic/international dichotomy, and

- sovereign equality, are all transpositions of domestic liberal theory. "The Friendly Relations Declaration passed by the UN General Assembly in 1970 is a declaration of liberalism writ large." See Koskenniemi 1989, p. 72. See also United Nations 1975, pp. 21–4.
- 56 Donaldson 1992, p. 154.
- 57 Arend and Beck 1993, pp. 71–173. Each of these exceptions is given its own explanatory chapter.
- 58 MacIntyre 1984, pp. 59–60.
- 59 Rawls 1971. See particularly pp. 136–66.
- 60 *Ibid.*, p. 378.
- 61 For Rawls' interpretation of the Kantian basis for his theory, see *ibid.*, pp. 251–7.
- 62 Kant 1964, pp. 57–8.
- 63 Kant's posture of moral inflexibility can also conceivably lead to the problem of "imprudent vehemence" that Doyle, in his discussion of Kantian liberal internationalism, concedes is characteristic of liberal foreign policy. See Doyle 1997, pp. 265–75.
- 64 Beitz 1999. See Part II in particular on "The autonomy of states."
- 65 *Ibid.*, p. 90.
- 66 *Ibid.*
- 67 Unger's theory relies upon a teleological argument not unlike Michael Sandel's. Social transformation requires "shared values" and "a conception of the ideal that should guide the reconstruction of the institutional forms" of society. See Unger 1989, p. 334.
- 68 Unger 1975, p. 86.
- 69 *Ibid.*, p. 87.
- 70 This point is also made, for example, by feminist critics of Rawls. See Matsuda 1993.
- 71 Koskenniemi 1989, p. 52.
- 72 Sandel 1998, p. 179.
- 73 *Ibid.*, p. 182.
- 74 Rawls 1996, p. xxiii.
- 75 *Ibid.*, p. 164.
- 76 Sandel 1998, p. 199.
- 77 See Rawls' discussion of the slavery issue in III (7) of *Political Liberalism*.
- 78 Rawls 1996, p. 251.
- 79 Sandel 1998, pp. 249–50.
- 80 Rawls 1996, p. 251, note 41.
- 81 I recognize that Rawls is attempting to separate the rational from the political. But while the Rawlsian denuded individual might be able to process the rational elements of such claims and act upon them, that person is not likely to appear at the polls or at a demonstration.
- 82 Rawls 1996, pp. 249–50. Rawls does deal with the civil rights issue but in the process of doing so, delegitimizes King's religious appeals as a part of public discourse. He does not account for the fact that religious discourse clearly motivated blacks to be involved in the movement and had some effect on whites. Rawls, in the end, renders illegitimate the reasoning behind almost all the political accomplishments of the religious left in the US and Europe, presumably regions advanced enough to move beyond comprehensive theory.
- 83 *Ibid.*, p. 250.
- 84 Pal 2004.
- 85 This is the term used by medievalist C. S. Lewis to describe the dismissal of all things "medieval" by modernists not because of any specific objection, but simply by virtue of the fact that they occurred in this period of history.

- 86 Rawls 1996, p. 237.
- 87 *Ibid.*, p. 239.
- 88 *Ibid.*, p. 243. On abortion, Rawls' view is that the balance between the need to protect human life, preserve the ability of political society to reproduce itself over time, and preserve the equality of women, leads to his position that "any reasonable balance of these three values" would allow for abortion in the first trimester, and in some cases beyond. I do not dispute the *political* reasonableness of his view. In fact, this approach, roughly the position of most European states (even Catholic states), is similar to the political formula that would have likely been crafted by the political branches. See *Roe v. Wade* 1973. What I find troubling is the ease with which Rawls asserts that such an approach is the outcome of political reasonableness, of careful weighing of values on a public reason basis in accordance with constitutional principles, which he has just told us are especially powerful if they are "entrenched." Those on the right could point out that such an approach as a matter of constitutional law based on public reason requires an enormous stretch of precedent. Those on the left, and women in particular, could reasonably wonder how and why Rawls would use a term like "duly qualified" to describe a reasonable policy on first-trimester abortions, a term that raises any number of issues after *Planned Parenthood of Southwestern Pennsylvania v. Casey* 1992 gave states in the US more room to decide what such qualifications might look like. See also his discussion of family law in Rawls 1999, pp. 156–64.
- 89 See Galston's critique of the public reason approach toward conflicts over education and religion in Galston 2002, pp. 115–21. Galston is particularly critical of the argument made by Amy Guttmann and Dennis Thompson regarding this issue, in Guttmann and Thompson 1996. But see also their response to Galston in Guttmann and Thompson 1999.
- 90 Rawls 1999, p. 61.
- 91 *Ibid.*, p. 111.
- 92 *Ibid.*, p. 117.
- 93 *Ibid.* See note 51 on this page. I use the term "qualified" because Rawls writes that Landes' argument is powerful though argued "sometimes a little too strongly."
- 94 Landes 1998, pp. 215–16.
- 95 Rawls 1999, pp. 117–18.
- 96 *Ibid.*, p. 61.
- 97 *Ibid.*, p. 62.
- 98 *Ibid.*, p. 135.
- 99 *Ibid.*, pp. 157–64. One need only look at the characterization of families and private associations and the assumptions regarding their role in society found in these pages to see how much content is brought within the sphere of public reason. Rawls argues that neutral principles of political justice apply to the "main institutions" of a society and not to the internal structure of associations like the family or churches. Yet the American federal courts, whose process of reasoning, at its best, is paradigmatic for Rawls, have had to struggle mightily with questions over how far public political justice should interact with such associations. See *Boy Scouts of America v. Dale* 2000 and *Lawrence et al. v. Texas* 2003. On the problematic relationship between expressive liberty and public reason in American jurisprudence, see Chapter 9 of Galston 2002.
- 100 Michael Walzer makes a similar point in a much kinder, gentler way in his discussion of deliberative democracy. See Walzer 1999.
- 101 Barber 1986, p. 57.
- 102 Glendon 1991.
- 103 Walzer 1990, p. 15.

- 104 Mapel 1992, p. 192.
- 105 Walzer 1987, pp. 78–9. Walzer relies upon his reading of the biblical books of Amos and Jonah to make this point.
- 106 See, for example, Sandel 1998, p. x.
- 107 See, for example, Agger 1993. Agger provides an excellent account of the conflicts between these perspectives (critical, feminist, Marxian, poststructural) while also attempting a new synthesis based on the contributions of each.
- 108 Fraser 1991, p. 100.
- 109 Koskenniemi 1989, pp. 71–94.
- 110 Purvis 1991, p. 89.
- 111 See Miéville 2005, pp. 45–60. For an example of the use of Derrida in a deconstruction of domestic liberal jurisprudence, see Kramer 1991, pp. 95–144. The use of Derrida’s work is not without its dangers. On Derrida’s defense of the UN and “die kantische Hoffnung auf eine Weltinnenpolitik,” both of which would appear to require a stable ontological basis for interpretation of texts and policies, see Derrida and Habermas 2003. This epistemic issue is less problematic for Foucault than for Derrida. See the discussion of the evolution of Foucault’s work in Gabardi 2001, p. 67.
- 112 Tushnet 1991, p. 1522.
- 113 Theda Skocpol and other state-centric theorists make a similar argument against the “arena” or pluralist structuralist-functional views of government held by Robert Dahl, David Truman, and others. See Evans, Rueschmeyer, and Skocpol 1985.
- 114 Tushnet 1989, p. 162. Emphasis added.
- 115 *Ibid.*, p. 162.
- 116 On judges as policy-makers and the role of legal realism in bringing this role to light, see Murphy 1964, especially pp. 29–31.
- 117 Kennedy 1988, p. 33.
- 118 *Ibid.*, p. 32.
- 119 Purvis 1991, p. 94.
- 120 *Ibid.*
- 121 *Ibid.*, p. 96.
- 122 *Ibid.*
- 123 NATO had been involved in air strikes against Bosnian Serbs in 1994–5 but operated on behalf of the UN.
- 124 North Atlantic Treaty Organization 1949.
- 125 *Ibid.*, Article 7.
- 126 North Atlantic Treaty Organization 1991. Emphasis added.
- 127 Unger 1975, p. 75.
- 128 To see how this reservation was applied and the ICJ’s response, see *Case Concerning the Military and Paramilitary Activities . . .*, Section V.
- 129 *Ibid.*, Section IX.
- 130 *Ibid.*, Section X(2).
- 131 Berg and Geyer 2002, p. 7. However, Habermas has thought it worthy of refutation. See his critique of CLS in Habermas 1996.
- 132 Tushnet 1999, p. 177.
- 133 Koskenniemi 2002, p. 517. However, Miéville argues that Koskenniemi is not free from the problems entailed by the incorporation of Derrida into CLS theory. See Miéville 2005, pp. 55–8.
- 134 McCormick 1999. McCormick specifically mentions Carl Schmitt in this context.
- 135 Thus Tushnet argues against judicial review and for a return of political decision-making to the political realm where non-neutral conflicts of values are out in the open. See Tushnet 1999.

- 136 For further examples of the possible permutations of legal ontology, see Valdes 1995; Crenshaw 1993; MacKinnon 1989 and Polan 1993.
- 137 Yosso 2005.
- 138 Delgado 1984 and 1992.
- 139 Harris 1990, p. 585.
- 140 On the problem of arbitrary ascription of ontological characteristics in post-modern conceptions of law, see Kramer 1995, p. 300.
- 141 Grant 1991, p. 19. See also Robert Keohane's response to Grant and feminist IR theory in Keohane 1991.
- 142 Doty 1996.
- 143 Hardwick 1991, pp. 152–3.
- 144 See Wicke 1992. Wicke sees great value in postmodern jurisprudence; however, she is concerned about the potential for “the implosion of postmodernity into the legal subject” (p. 15).
- 145 Megill 1985, p. 343.
- 146 Purvis 1991, p. 123.
- 147 Miéville 2005, p. 59.
- 148 Cited in Morgenthau 1974, p. 76. Emphasis added.
- 149 Niebuhr 1960, p. 233. Emphasis added.
- 150 Morgenthau 1974, p. 107.
- 151 Morgenthau 1968, pp. 29–30. Cited in Russell 1990, p. 201.
- 152 Karnow 1983, p. 255.
- 153 Russell 1990, p. 200.

5 Realism, tragedy, and postmodernity

- 1 While Morgenthau does discuss the problem of sin, it is as an empirical observation. Its normative implications are limited by the absence of the possibility of redemption, as I will show below.
- 2 Nietzsche 2000, p. 28. Emphasis in the original.
- 3 Freud 1961, pp. 66–7.
- 4 For an example of the misappropriation of science in a postmodern context, see Sokal and Bricmont 1998. See also Sokal 1996b and Sokal 1996a.
- 5 Gross 1982, p. 75.
- 6 Weber 1978, p. 7.
- 7 Weber 1949, p. 90.
- 8 *Ibid.*, p. 93. Emphasis in the original.
- 9 *Ibid.*, p. 111.
- 10 Weber 1958a, p. 115.
- 11 *Ibid.*
- 12 Weber 1958b, p. 141.
- 13 *Ibid.*, p. 140.
- 14 Mommsen 1984, pp. 381–9.
- 15 Johnson 1992, p. 110.
- 16 Both Paul Johnson and Michael Joseph Smith make connections between Weber's theory of politics and Article 48. Mommsen disagrees with this view, stating that Weber showed no interest in it when the Constitution was being formulated. See Johnson 1992, p. 110; Mommsen 1984, p. 378; and Smith 1986, p. 41.
- 17 Weber 1958b, p. 152.
- 18 Quoted in Mommsen 1984, p. 40.
- 19 Weber 1958a, p. 115.
- 20 *Ibid.*, p. 124.
- 21 See Bismarck 1898, p. 157.

- 22 Weber 1958a, p. 123.
- 23 Mannheim 1954, p. 22.
- 24 Jones 1997, p. 233.
- 25 Mannheim 1954, p. 173.
- 26 Carr 1964, p. 11.
- 27 *Ibid.*, p. 3. Carr relies upon *The Critique of Pure Reason* here.
- 28 *Ibid.*, p. 218.
- 29 *Ibid.*, p. 219.
- 30 *Ibid.*, p. 220.
- 31 *Ibid.*, p. 221.
- 32 *Ibid.*, p. 222.
- 33 Carr 1962, pp. 84–6.
- 34 *Ibid.*, p. 152.
- 35 *Ibid.*, p. 173.
- 36 Carr 1964, p. 97.
- 37 *Ibid.*, p. 93. Emphasis added.
- 38 *Ibid.*, p. 159.
- 39 See Jones 1985, pp. 150–1.
- 40 Carr 1964, p. 100.
- 41 *Ibid.*, p. 100.
- 42 Kissinger 1950, pp. 22–3, quoted in Dickson 1978, p. 39.
- 43 Kissinger 1973, p. 322.
- 44 *Ibid.*, p. 322.
- 45 Dickson 1978, p. 34.
- 46 Friedrich 1948.
- 47 On facticity in existential thought, see Macquarrie 1973, pp. 189–93. This rather cumbersome word is a translation of the German *Faktizität* and the French *facticité*.
- 48 Quoted in Dickson 1978, p. 79.
- 49 *Ibid.*, p. 74.
- 50 Kissinger 1973, p. 2.
- 51 In *A World Restored*, Kissinger equates the actions of knaves, heroes, traitors, and statesmen who are distinguishable only by their motives, not their actions (Kissinger 1973, p. 20).
- 52 *Ibid.*, p. 11.
- 53 Dickson 1978, p. 26.
- 54 Kissinger 1973, p. 327.
- 55 *Ibid.* Emphasis in the original.
- 56 Kissinger 1969, p. 29.
- 57 *Ibid.*, p. 46.
- 58 *Ibid.*, p. 328.
- 59 Graubard 1973, p. 276.
- 60 Kissinger 1973, p. 329. Emphasis in the original.
- 61 *Ibid.*, p. 332.
- 62 Ward 1983, p. 60.
- 63 Isaacson 1992, p. 290.
- 64 Quoted in Isaacson 1992, p. 160. For this reason, he was also opposed to Nixon's later policy of Vietnamization of the war, seeing this as a decoupling of force from diplomacy (pp. 236–7).
- 65 Smith 1986, p. 211.
- 66 Kissinger 1973, p. 326.
- 67 *Ibid.*, p. 329.
- 68 Morgenthau 1977, p. 7.
- 69 Frei 1994, p. 96. On this and the following page, Frei also argues that Mor-

- genthau later used Weber both to “cover over” (*belegen*) and incorporate Nietzsche into his thought. Frei believes Morgenthau felt the need to leave Nietzsche out of his intellectual biography because “Natürlich war sein Denken noch immer ‘deutsch’ – doch waren es undeutsche Zeiten. Ab 1941 stand Amerika im Krieg; fortan machte nicht jeder Zeitgenosse einen Unterschied zwischen ‘Nazis’ und ‘Germans’” (p. 113).
- 70 Ibid., p. 101.
- 71 Morgenthau 1974, p. 141.
- 72 Ibid., pp. 141 and 143. Morgenthau cites the principles of quantum mechanics to provide an illustration of this fact in the physical world. The point is correct though the analogy is inappropriate. See Hofstadter 1985, pp. 455–77.
- 73 Morgenthau 1974, p. 145.
- 74 Ibid., p. 154.
- 75 Ibid., p. 155.
- 76 Ibid., p. 155.
- 77 Ibid., p. 151.
- 78 Ibid., p. 221.
- 79 Morgenthau 1970, pp. 256–7.
- 80 Frei 1994, pp. 105–6.
- 81 Morgenthau 1974, p. 194.
- 82 Morgenthau 1985, p. 50.
- 83 Morgenthau 1974, p. 221.
- 84 Ibid., p. 219.
- 85 Ibid., p. 205.
- 86 Ibid., p. 204.
- 87 Ibid., p. 205.
- 88 Morgenthau 1985, p. 239.
- 89 Ibid., p. 225.
- 90 Ibid., p. 225.
- 91 Morgenthau 1974, p. 168.
- 92 Ibid., pp. 190–1.
- 93 Ibid., p. 192.
- 94 Ibid., p. 195.
- 95 Ibid., p. 196.
- 96 Ibid., p. 201.
- 97 Ibid., p. 203.
- 98 Ibid., p. 221.
- 99 Ibid., p. 249.
- 100 Cited in Russell 1990, p. 157.
- 101 Morgenthau 1985, p. 228.
- 102 Quoted in Frei 1994, p. 218.
- 103 Bloom 1987, p. 149.
- 104 Russell 1990, pp. 169–70.
- 105 Quoted in Frei 1994, p. 230.
- 106 Quoted in Russell 1990, p. 158.
- 107 Morgenthau 1974, pp. 220–1.
- 108 Spragens 1981, pp. 243–4.
- 109 Ibid.
- 110 Elazar 1996a, p. 3.

6 Covenantal epistemology and international ethics

- 1 I rely here on Jaki’s definition of the universe as “the totality of consistently interacting things.” See Jaki 1987.

- 2 For example, one can separate the empirical sociological constructivism of Peter Berger or Alan Wolfe from the “totalizing discourse” of constructivism in works by Foucault or Lacan.
- 3 See Habermas 1990, p. 203. Emphasis in the original.
- 4 See Rorty 1989, p. 60. Rorty’s “liberal utopia,” for example, is animated by “free and open encounters of present linguistic and other practices with suggestions for new practices.” What these other practices are is difficult to say as Rorty, like Wittgenstein, reduces interaction to language games.
- 5 Merleau-Ponty 1962. On this point, see also Giddens 1984.
- 6 Wolfe 1989, p. 215.
- 7 See, for example, the introduction to Chapter 5 on discursive warrants in Fox and Miller 1995.
- 8 Epistemic realism should not be conflated with objectivist foundationalism – the idea that first-order beliefs can be directly perceived through sensory data. See Brink 1989. On the issue of epistemic realism and moral judgment, see Finnis 1995 and George 1993.
- 9 Nor can hyperempiricism provide a foundation for science. The belief in the intelligibility of phenomena that underlies all scientific experimentation (and empirically oriented philosophy for that matter) cannot be demonstrated sensorially, as Hume understood.
- 10 Spragens 1981, p. 209.
- 11 I have deliberately used a somewhat archaic term to represent the range of fields that study the links between biology and adaptive behaviors. See Boehm 1999; Ridley 1997; Pinker 2002; Rubin 2002; Fukuyama 1999a; Barkow, Cosmides, and Tooby 1992; and Alcock 2001.
- 12 Marc Hauser is very quick to discuss the naturalistic fallacy in his excellent work on the development of moral intuitions. See Chapter 1 of Hauser 2006.
- 13 See, for example, Bloom and Dess 2003.
- 14 MacIntyre 1984, p. 191. See also Hertzke 1998, pp. 631–2.
- 15 Morgenthau 1985, p. 246.
- 16 Coll 1995, p. 59.
- 17 *Ibid.*, p. 58.
- 18 Nye 1985, p. 6.
- 19 *Ibid.*
- 20 Walzer 1985, p. 133.
- 21 *Ibid.*
- 22 Fukuyama. 1992, p. 56.
- 23 Fukuyama 1999b.
- 24 This is all the more true in the post-Darwinian period in which “nature” has taken on a whole new meaning.
- 25 Fukuyama, 1992, pp. 82–8.
- 26 Berman 1983, p. 39.
- 27 MacIntyre 1999, p. 68.
- 28 *Ibid.*, p. 91.
- 29 *Ibid.*, p. 92.
- 30 *Ibid.*, p. 96.
- 31 For an excellent compilation of these documents that places them in historical perspective, see Ishay 1997.
- 32 *Ibid.*, pp. 424–32.
- 33 *Ibid.*, Article 10:1.
- 34 *Ibid.*, Article 10:1.
- 35 The Greens also rely heavily on these documents to serve as a baseline for just and sustainable development. They would also add the right to a healthy

- environment to the *Universal Declaration* (Section 6.4). See European Greens 2001.
- 36 Nussbaum 2003a, p. 36.
 - 37 Glendon 1991.
 - 38 Sen 1999, p. 74.
 - 39 Nussbaum 2003a, p. 35.
 - 40 *Ibid.*, p. 44.
 - 41 Nussbaum 2004, p. 13.
 - 42 *Ibid.*, p. 15.
 - 43 Offe 2004, p. 516.
 - 44 Sen 1999, p. 72.
 - 45 Harriss 2003.
 - 46 Nussbaum 1999, p. 227. See also Buchanan 2004, p. 86.
 - 47 Fukuyama 2006a, p. 9. Note his use of the term “realistic Wilsonianism” to describe his current theory of foreign policy.
 - 48 Simpson 2001, p. 79.
 - 49 Erskine 2000, pp. 589–90.
 - 50 Hechter 2000, p. 141.
 - 51 Gurr and Harff 1994, p. 153. See also O’Leary 2002, p. 165; Collier 2002; and Lijphart 1977.
 - 52 Solnick 2002, pp. 204–5.
 - 53 Elazar 1998a, p. 313.
 - 54 Engel 2004, p. 44.
 - 55 On this point, see Collier 2002, pp. 36–7.
 - 56 On the use of covenantal theory in Martin Luther King’s thought, see Allen 2000.
 - 57 West and Glaude 2006.
 - 58 Drèze and Sen 1989, p. 278.
 - 59 *Ibid.*
 - 60 *Ibid.*, p. 48.
 - 61 *Ibid.*, p. 16.
 - 62 Sen 1999, pp. 155–6.
 - 63 *Ibid.*, 156.
 - 64 Sasson 2000, p. 27.
 - 65 Holub 1992, p. 9.
 - 66 Sasson 2000.
 - 67 One of the most eloquent arguments that this has in fact occurred at the domestic level in the US is found in Skocpol 2003.
 - 68 One exception to the extraordinarily condescending tone of most of these critiques is T. Frank’s excellent, if harsh, analysis of the ideological evolution of American politics: Frank 2004. On reactionary modernism, see Herf 1986.
 - 69 Friedman 2000, pp. 207–11.
 - 70 While recognizing the political element within Elazar’s understanding of civil society, this is one point at which I part company with him. When one examines his use of the term in his later writings, it departs somewhat from the ideal model of the covenantal commonwealth model describes in his earlier works on political culture and administration, such as Elazar 1984.
 - 71 *Ibid.*, p. 97.
 - 72 Shaw 1991, p. 8.
 - 73 The idea espoused by some IR liberals that the nation-state is no longer the central actor in the international arena is premature. However, one of the central tenets of international liberalism *and* covenantal thought is that the state is not the only important actor on the world stage, nor should it be. Dahl mentions that one way transnational organizations like the EU might deal

- with the representation problem is by bypassing the nation-state and dealing directly with local authorities. See Dahl 1994, p. 33.
- 74 *Ibid.*, p. 291.
- 75 Nussbaum 2004, p. 14.
- 76 Bourdieu 1998.
- 77 James Coleman is also considered to be one of the primary figures responsible for the development of this concept. See Coleman 1988, pp. S100–1. See also Putnam, Leonardi, and Nannetti 1993; Putnam 2000; Woolcock 2001; Woolcock and Narayan 2000; Foley and Edwards 1999; and Grix 2001. On the issue of trust as social capital and its effect on lowering transaction costs within societies, see Offe 1999.
- 78 Fukuyama 1996, p. 26.
- 79 Putnam, Leonardi, and Nannetti 1993; Putnam 2000.
- 80 Putnam, Leonardi, and Nannetti 1993, p. 167.
- 81 Tarrow 1996; Skocpol 1996; Portes and Landolt 1996; and DeFilippis 2001.
- 82 McLean, Schultz, and Steger 2002.
- 83 Fukuyama argues that political and economic development requires bonding (primarily kinship) ties; however, these are not sufficient and must be supplemented by bridging ties that build on extrafamilial trust. See Fukuyama 1996.
- 84 Putnam and Goss 2004, p. 12.
- 85 Colletta and Cullen 2000.
- 86 Fukuyama 1996, pp. 150–1.
- 87 Putnam 2001, p. 45.
- 88 On social capital contributions to sustainable development and other environmental issues, see Aygeman and Angus 2003 and Dagger 2003.
- 89 Putnam 2001, p. 50.
- 90 Knowles 2002.
- 91 Putnam himself raises this issue at the end of Putnam, Leonardi, and Nannetti 1993, p. 183.
- 92 For example, see Fried 2002 and Schuurman 2003.
- 93 DeFilippis 2001, p. 790. DeFilippis argues that Tocqueville's view is "much more complex than Putnam and his followers acknowledge."
- 94 Elazar 1998b, pp. 2–3.
- 95 Putnam, Leonardi, and Nannetti 1993, pp. 7–8.
- 96 *Ibid.*, p. 114.
- 97 *Ibid.*, p. 119.
- 98 Amin 1999, p. 393.
- 99 Putnam, Leonardi, and Nannetti 1993, p. 119.
- 100 Sen 1999, p. 46.
- 101 *Ibid.*, p. 91.
- 102 Parayil and Sreekumar 2003, p. 468.
- 103 *Ibid.*, p. 469.
- 104 Saguaro Seminar.
- 105 See Peter Hall's study of the role of the state in the development of social capital in the UK: Hall 2004.
- 106 Bourdieu 1998 and Bourdieu 1985, p. 248. Cited in Portes 1998. Emphasis in the original.

7 From ethics to policy: a covenantal future

- 1 Norris 2002, p. 236.
- 2 Scholte 2002, pp. 293–4.
- 3 DeFilippis 2001.
- 4 See Whitely 2000 and Knack 1999. For a clearer display of the link between

- social capital and economic growth, see the World Bank's "Social Capital Assessment Tool", June 1999. This document operationalizes the link in great detail. For another application of social capital theory that takes Bourdieu's more politically focused approach, see Gidwani 2002, p. 87.
- 5 Collier and Hoeffler 1998, pp. 563–73.
 - 6 Collier *et al.* 2003, pp. 53–4. Emphasis added.
 - 7 Collier 2002, p. 36.
 - 8 Karatnycky and Ackerman 2005.
 - 9 Isham, Kaufmann, and Pritchett 1997.
 - 10 Lipset, Seong, and Torres 1993, pp. 155–75.
 - 11 Bebbington and Carroll 2000, p. 40.
 - 12 *Ibid.*, p. 36.
 - 13 Colletta and Cullen 2000, p. 29.
 - 14 *Ibid.*, p. 30. Emphasis added.
 - 15 Mitra 1992, p. 118.
 - 16 *Ibid.*, p. 121.
 - 17 Drèze and Gazdar 1997, p. 97; Robinson 1998, pp. 175–6.
 - 18 Collier 2002, p. 37. To be more precise, Collier excludes government, firms, and households from his definition of civil social capital.
 - 19 Lieten 2002. On the lack of economic growth in Kerala, see also Parayil and Sreekumar 2003; and Sharma 2002, p. 124, note 52.
 - 20 Jain 2003, p. 118.
 - 21 Parayil and Sreekumar 2003, p. 474.
 - 22 Organisation for Economic Co-operation and Development 1998; Frankel and Romer 1999; Irwin and Tervio 2002.
 - 23 Brune and Garrett 2005.
 - 24 Gonzalez-Pelaez 2005.
 - 25 Hufbauer and Wong 2004, pp. 72–6. The authors note that, ironically, had George Bush not agreed to increased supports, he would have lost his ability to negotiate further free trade agreements.
 - 26 Cline 2005.
 - 27 Gonzalez-Pelaez 2005, p. 97.
 - 28 Hertel and Keeney 2005.
 - 29 Imboden 2005.
 - 30 See, for example, Rahman 1999 and Lucarelli 2005.
 - 31 Helleiner 2001.
 - 32 Lan 2002, p. 180.
 - 33 *Ibid.* See also Lardy 2003.
 - 34 Lardy 2003, pp. 201–2.
 - 35 For a review of this debate, see Orlov 2005 and Eichengreen 2003.
 - 36 Edison and Warnock 2003. The authors do provide a nuanced argument, however, that shows that the reductions in the cost of capital which can be gained from liberalization will vary, depending upon the degree of liberalization.
 - 37 Eichengreen 2003, pp. 298–9. Eichengreen believes such measures can have only limited effect, however. The full range of Eichengreen's suggestions is in Chapter 11.
 - 38 *Ibid.*, pp. 295–6.
 - 39 Of course, there were exaggerated claims made in the US regarding the efficiency of the Asian model of neomercantilist state-driven growth. Paul Krugman puts many of these theories to rest in Krugman 1996.
 - 40 Kerbo 2006, p. 114. Emphasis in the original.
 - 41 *Ibid.*, p. 115.
 - 42 Pinker 2002, p. 318.
 - 43 Huntington 1989.

- 44 Gurr, and Harff 1994, p. 149.
- 45 Morgenthau 1985, p. 247.
- 46 See Walzer 1985, pp. 127–9.
- 47 Kant 1985, p. 87. Kant distinguishes armies from citizen militias. “But the periodic and voluntary military exercises of citizens who thereby secure themselves and their country against foreign aggression are entirely different.”
- 48 Quoted in Russell 1990, p. 161.
- 49 Morgenthau 1982, pp. 19–20.
- 50 *Ibid.*, p. 22.
- 51 Morgenthau 1985, p. 243.
- 52 Elazar is concerned with the way Wilson undermined federalism, stating that he “did more to undermine the principles of federal democracy than any other single person.” See Elazar 1998b, p. 134.
- 53 Cotton 1938, pp. 212–13.
- 54 Rummel 1994, p. 1.
- 55 Irons 2005; Fisher and Adler 1998, pp. 1–20.
- 56 Fisher 2005.
- 57 Fisher 2003, p. 389.
- 58 Fisher and Adler 1998.
- 59 Fisher 1997.
- 60 Fisher 2005.
- 61 Cited in Elazar 1998a, p. 252.
- 62 On the antithetical relationship between slavery and covenant and covenant as a response to slavery, see Wildavsky 1984. See especially “Slavery: passive people, passive leader,” on pp. 27–61.
- 63 Elazar 1988b, p. 131.
- 64 One has trouble, for example, imagining Lincoln, who agonized over the cost of procuring the good, pushing the Gulf of Tonkin Resolution through Congress and involving America in Vietnam. Morgenthau’s opposition to Vietnam is perfectly consistent with his doubts about the cost of such a venture, doubts Lincoln would have shared.
- 65 Quoted in Morgenthau 1985, p. 249.
- 66 Quoted in Russell, *op. cit.*, pp. 240–1.
- 67 Kagan 2003.
- 68 Nicolaidis 2004, p. 98.
- 69 Kant 1985, p. 101.
- 70 Nicolaidis 2004, p. 103.
- 71 Elazar 1988a, p. 298.
- 72 Soros 1996, p. 9.
- 73 “The Big Squeeze” 1997, p. 55.
- 74 *Ibid.*, p. 56.
- 75 *Ibid.*, p. 55.
- 76 Nicolaidis 2004, p. 104.
- 77 Kant 1985, p. 113.
- 78 Both references at Slaughter 2004a, p. 8.
- 79 Nussbaum 2004, p. 15. Emphasis added.
- 80 Slaughter 2004a, p. 145.
- 81 *Ibid.*, pp. 135–6.
- 82 *Ibid.*, p. 3.
- 83 Anderson 2005.
- 84 Sen 1999, p. 95.
- 85 This example and those that follow are intended to emphasize why diversity and cultural difference are values those on the left end of the American political spectrum should take seriously. Those on the right do not need to be per-

- suated of this, since they tend to reject appeals to foreign law almost categorically.
- 86 Slaughter 2004a, p. 247.
- 87 Anderson 2005, p. 1310. Of course, this is a very controversial proposal. Some, perhaps most, legal scholars who take a “living document” view of constitutional jurisprudence would also argue that Anderson’s suggestion involves a misreading of congressional power under Article III of the Constitution, a response which appears suspicious given its implicit appeal to textual objectivity.
- 88 Feaver and Gelpi 2005.
- 89 Reiter and Stam 2002, p. 158.
- 90 *Ibid.*, p. 197.
- 91 Ikenberry 2001, p. 3.
- 92 Modelski 2000.
- 93 Ikenberry 2001, p. 5.
- 94 *Ibid.*, p. 53.
- 95 *Ibid.*, p. 62.
- 96 Kegley and Raymond 2002, p. 254.
- 97 *Ibid.*, pp. 255–6.
- 98 *Ibid.*, p. 258.
- 99 *Ibid.*, p. 267.
- 100 *Ibid.* There is significant ambiguity in the description of the two schools of thought. In the text, the authors do discuss the overlap between the two schools and use terms like “hard-boiled realism” or qualifiers such as “some realists” (p. 268). However, an examination of other references in the text and of Table 9.3 in particular, which outlines the premises of the two theories, is unequivocal in its negative description of realism (p. 266).
- 101 Axelrod 1984, p. 33.
- 102 Wolfe, for example, sees civil society as the basis for a successful economy and polity and, interestingly, refers to the role of civil society as a “gift.” See Wolfe 1989, p. 261.
- 103 Kegley and Raymond 1999, p. 239.

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