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UNIVERSITY OF OKLAHOMA

GRADUATE COLLEGE

COVENANT AND INTERNATIONAL ETHICS: A DECONSTRUCTION AND RECONSTRUCTION OF LIBERAL INTERNATIONAL RELATIONS THEORY

A Dissertation

SUBMITTED TO THE GRADUATE FACULTY

in partial fulfillment of the requirements for the

degree of

Doctor of Philosophy

By

MARK DAVID GISMONDI
Norman, Oklahoma
2000

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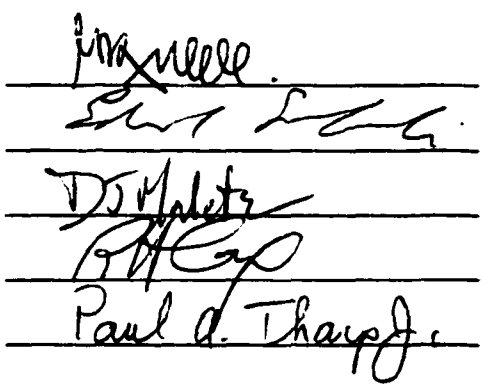
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COVENANT AND INTERNATIONAL ETHICS: A DECONSTRUCTION AND RECONSTRUCTION OF LIBERAL INTERNATIONAL RELATIONS THEORY

A Dissertation APPROVED FOR THE
DEPARTMENT OF POLITICAL SCIENCE

BY



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ABSTRACT

The relationship between ethics and foreign policy is increasingly important given the current trend toward globalization. However, both of the leading international relations theories, liberalism and realism, suffer from an inability to integrate the ethical and pragmatic dimensions of foreign policy. This is because of the break between the transcendent ethics espoused by these theories and the uncertainty of their epistemic foundations. This dissertation examines the implications of the covenantal paradigm for meeting the theoretical challenges within international ethics. The covenantal paradigm, as described by Daniel Elazar's work on the covenant tradition in politics, provides a means of overcoming the problems of liberal and realist theories. Covenant's three essential principles are that power must be shared and limited, that liberty must be federal, or directed toward covenantal goals, and that policy-makers must have a sense of realism about the existence of evil and its political consequences.

Liberalism's origins in covenantal political culture and thought make its premises similar in many ways to the covenantal paradigm. But the Enlightenment separation between ethics and epistemology, as well as the ever-increasing liberal attraction to hierarchical methods of problem-solving, led to liberal imperialism and ethical confusion. As a result, liberal policy-makers often suffer from moral blindness and a tendency toward coercion in the international

arena. Realists, on the other hand, often fall into a pattern of exercising an existential, private morality, indiscernible by those not directly involved in statecraft. This approach is unacceptable in an open society.

Covenantal thought integrates ethics and interests in a manner similar to that found in social capital theories discussed by Robert Putnam, Francis Fukuyama, and James Coleman. This paradigm retains all the benefits of liberal theory, such as a means of discerning progress in history, a focus on human rights, and an empirical grounding, without falling into the trap of either impotent isolationism or liberal imperialism. Ultimately, the goal of a covenantal foreign policy is similar to Kant's vision of a *foedus pacificum* (a peaceful covenanted federation of nations). Nations will also be subject to the norms of international law, the foundational premise of which is *pacta sunt servanda*, nations ought to keep their covenants.

INTRODUCTION

For three hundred years, liberalism served as a comprehensive theoretical framework for understanding issues of politics and ethics. Since the time of Thomas Hobbes and John Locke, both of whom documented and interpreted the events of the English Civil War, liberalism has been clarified and reshaped in radical ways, making it distinctive from its earlier incarnation in the seventeenth century. Despite these changes, the language used to describe our hopes and aspirations for the world continues to be broadly liberal in nature. No statesman can plausibly speak like a nineteenth century practitioner of *realpolitik;* even the most oppressive of late twentieth century regimes feel the need to make ethical justifications for their behavior that often sound vaguely liberal.

Early in the nineteenth century, the epistemological assumptions that gave birth to liberalism were discarded, a fact which has had profound ethical implications. But liberal international theorists today espouse normative beliefs with global implications without taking these changes into account. Late-modern liberalism asserts a variety of public goods for morally autonomous individuals. Liberalism is heralded as the end of history while claiming to be

ateleological. There is much that is beneficial in liberal practice, much to be preserved. This paper argues that, in order to do that, liberal theory must be revisited and revised, not destroyed. While realism has done much to bring to light the flaws of liberal international theory and practice, it cannot, by itself, serve as an alternative. For realism in its contemporary form cannot overcome its own ethical limitations. In many ways, it suffers from the same afflictions as liberalism. As such, both theories must be transcended rather than simply denied or synthesized.

This work deals primarily with the ethical dimensions of liberal statecraft. Joel H. Rosenthal states, "the essential task of ethics and international affairs. . . [is] to show how policy decisions can be firmly rooted in ethics while avoiding the perils of moralism and absolutism on the one hand and empty relativism on the other."[1] Liberalism is often given as the ethical alternative to an ostensibly amoral realism. Yet this dichotomy obscures the fact that contemporary liberalism itself is rife with internal conflict over matters of ethics. If liberalism is able to provide an answer as to what an ethical statecraft ought to look like, it must do so on a broadly reconstructed basis. To rephrase Rosenthal's insightful statement, it must account for the contextual nature of rule-application (without falling into relativism) as well as meeting the moral obligations of

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[1] Joel Rosenthal, "Introduction: Ethics through the Cold War and After," in *Ethics and International Affairs: A Reader*, ed. Joel Rosenthal (Washington DC: Georgetown University Press, 1995), 2.

covenant-making without becoming rigid absolutism. One way to accomplish the task of integrating ethics and policy is by returning to the Aristotelian understanding of *phronesis* or practical reason. Some postmodernist thinkers have done just that while eschewing Aristotle's metaphysics and his teleology. More importantly, they discard the attachment to the *polis,* which in Hellenic thought educated one into the virtues that *phronesis* assumes to be present.[2] This is a promising beginning but it is just that, a beginning.

Phronesis, as it appears in Aristotelian theory, is attached to an understanding of the good. This attachment distinguishes it from mere cleverness. *Phronesis,* as prudence, is attached to the substantive humanistic good of covenant. Covenantal thought places the need for power to be shared and limited at the forefront of its concerns. Power ought to be used to achieve public goods; covenant seeks after the commonwealth ideal, something described further below. Prudence weaves its way through both domestic and international politics as the recognition of this need to limit power in its application. Liberals recognize this need at the domestic level while realists focus upon its international implications. Yet power-limitation is the unitary thread that runs through the comprehensive political ethic of covenantal theory.

The theoretical focus of this paper raises a very

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[2] On this point, postmodernists follow Aquinas and other neo-Aristotelians for whom the *polis* was an outmoded form of political organization. Unlike Aquinas, however, postmodernists do not replace the *polis* with some conception of natural law.

important question: Why the need for more theory or any theory for that matter? A theory provides a rational reordering of concepts into a meaningful whole that may serve as a more effective guide for praxis. One might object that such a definition does not fit science, particularly the natural sciences in which abstract truth is sought apart from practical applications. This ignores two very important developments in the physical sciences. First, the concept of purely abstract truth has been pressed to the margins of science for the last thirty years, especially in such areas as quantum physics and the search for a unified field theory. Second, scientists themselves recognize that theory ought to lead to more discovery which, in turn, ought to facilitate better theory. This movement from theory to praxis, labeled "abduction" by Charles Peirce, belies the notion that theory is somehow autonomous in the natural sciences. The same is true of international relations. Just as Kant stated that percepts without concepts are meaningless, so for statesmen, praxis without theory is meaningless at best and dangerous at worst.

In the case of international affairs, there is no better place to look for theoretical possibilities than in the language and practice of those who have come before us. But just as in the sciences, when theory fails to match what is observed in the world, the theory must be revised or scrapped. As Kant and, more recently, Thomas Kuhn attempted to show, there are times when anomalies ought to alert us to

the failures of current theories and send us looking for a new perspective that better explains what we are observing.[3] Aristotle, Machiavelli, Hobbes and Locke all looked to contemporary practice in order to derive rational bases for understanding politics. They were theorizing about events which had already taken place in order to better understand them and apply that understanding to the future. In short, they sought to make the future more rationally comprehensible than the past.

If realist and liberal international theories have both fallen short, the covenantal paradigm provides a sounder theoretical basis for integrating ethics and policy. The covenantal paradigm provides a means of fulfilling our aspirations to achieve public goods recognized by liberal thinkers. In addition, the historical circumstances that gave rise to covenantal thought highlight the concerns of many international realists about the human propensity toward the domination of others. Covenant as paradigm asserts three primary points. First, power must be limited and shared. Second, covenantal liberty is the liberty to achieve the objectives of the covenant 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

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[3] Thomas Kuhn, *The Structure of Scientific Revolutions*, 2nd ed. (Chicago: University of Chicago Press, 1970). Kuhn's own epistemology suffers from many of the same neo-Kantian flaws discussed in this paper. As a sociology of science, however, his work is a valuable commentary on scientific practice.

equated with absolute autonomy. Finally, policies ought to take into account the human propensity to err, to commit selfish or even evil acts. This requires a kind of realism in policy-making that goes beyond the cultural pessimism found in much contemporary realist thought. These elements of covenantal thought serve as a foundation for overcoming the limitations of other international theories, while preserving their insights.

Limitations of the Study

This study takes a paradigmatic approach. It attempts to construct a "grammar" of political ethics rather than dealing with specific policy issues in detail.[4] In Kuhn's terms, the former is a function of paradigmatic theory while the latter falls under what he terms 'normal science."[5] Like a grammatical model, paradigms describe a pattern of practice to which specific cases can be applied. Kuhn describes the process of normal science as being done within largely assumed presuppositions. Only when the process of normal science fails, when inexplicable anomalies occur again and again, do those presuppositions come under question.[6] While

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[4] This use of *paradigm* is in accordance with its Greek root, *paradeigma*, meaning an example. Kuhn gives two examples of paradigmatic practice: grammar and common law jurisprudence. See Kuhn, 23.

[5] *Ibid.*, 24.

[6] *Ibid.*, 67f. Kuhn states, "Because it demands large-scale paradigm destruction and major shifts in the problems and techniques of normal science, the emergence of new theories is generally preceded by a period of pronounced professional insecurity. As one might expect, that insecurity is generated by the persistent failure of the puzzles of

Kuhn's model overemphasizes discontinuities in the progress of science, and has limited applicability in the social sciences, it is useful as an inquiry into the means by which major theoretical change in a given field occurs.

This work asserts that liberalism, the predominant political paradigm in the West for two centuries, is subject to contradictions that constitute failures at both theoretical and empirical levels of analysis. Neither contemporary liberal theory nor liberal policy (domestic and foreign) can account for itself in its own terms. Second, a political ethic that seeks to secure the humanistic ethics treasured by liberals must be covenantal, not contractual. The covenantal paradigm, described in greater detail below, more effectively deals with what Daniel Elazar calls the "two faces of politics": power and justice.[7] All political paradigms must account for these two poles of human endeavor. Liberalism and international realism both suffer from an inability to take these poles into account because of a chasm separating their epistemologies and their ethics. Covenantal thought, however, does not share this affliction and can better serve as a framework within which rational policy decisions can be made. Because of the paradigmatic emphasis of the paper, it shares much more in common stylistically

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normal science to come out as they should. Failure of existing rules is a prelude to a search for new ones."

[7] Daniel Elazar, *Covenant and Commonwealth: From Christian Separation through the Protestant Reformation,* The Covenant Tradition in Politics Series, Volume II (Brunswick NJ: Transaction Publishers, 1996), 4.

with Morgenthau's *Scientific Man,* Reinhold Niebuhr's *Moral Man: Immoral Society,* or, to a lesser degree, Fukuyama's *The End of History and the Last Man* than with a work espousing a host of specific policy recommendations. The problems raised in those works, the relationship of power to justice, and the role of justice in a world plagued by evil, will be reexamined in the chapters that follow.

The Liberal Revival

Since the fall of the Soviet Union, liberalism as a theory of international relations has experienced a revival both as an empirical explanation of world order and as a normative basis for foreign policy. Michael Doyle, for example, states that liberalism is "emerging as a powerful paradigm in the social scientific sense. Unusually--for international relations--it is a tested causal theory."[8] Books like Francis Fukuyama's *The End of History and the Last Man,* Joshua Muravchik's more policy-oriented *Exporting Democracy,* and a recurrent interest in Immanuel Kant's *Perpetual Peace* reveal a renewed sense of hope that peace can be achieved through liberal means. The underlying theme of these works is 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 democratic, they will cease to be a threat to one another. There is some evidence for this being the

[8] Michael Doyle, *Ways of War and Peace* (New York: W.W. Norton & Co., 1997), 285.

case. Indeed, it appears that, as Kant predicted, liberal democratic states do not fight one another.[9]

What are the primary tenets of liberal international relations theory? There are a number of variations of liberal theory; but they do have some core elements in common. Liberal international relations theory is defined in this study as being comprised of four fundamental elements.[10]

First, liberal theory is progressive. Mark Zacher and Richard Matthew state: "International relations are gradually being transformed such that they promote greater human freedom by establishing conditions of peace, prosperity, and justice."[11] The authors quote John Gray, who asserts that liberalism is individualist, egalitarian, universalist and "meliorist in its affirmation of the corrigibility and improvability of all social institutions and political arrangements."[12] Inherent in liberal theory is a belief in the power of human reason and its ability to alter conditions of

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[9] Michael Doyle, "Liberalism and World Politics," in *International Relations Theory: Realism, Pluralism, Globalism*, eds. Paul Viotti and Mark V. Kauppi, 2nd ed.(New York: Macmillan, 1993), 279. See also R.J. Rummel, "Libertarianism and International Violence," *Journal of Conflict Resolution* (March 1983), 27-71; Henry S. Farber and Joanne Gowa, "Polities and Peace," *International Security*, 2(Fall 1995), 108-32; John Oneal, Zeev Maoz, and Bruce Russett, "The Liberal Peace: Interdependence, Democracy and International Conflict: 1950-1985," *Journal of Peace Research* (February 1996), 11-28.

[10] This list is derived from Mark Zacher and Richard Matthew, "Liberal International Theory: Common Threads, Divergent Strands," in *Controversies in International Relations Theory: Realism and the Neoliberal Challenge*, ed. Charles Kegley Jr. (New York: St. Martin's Press, 1995), 107-150.

[11] *Ibid.*, 109.

[12] John Gray *Liberalism* (Minneapolis: University of Minnesota Press, 1986), x; quoted in Zacher and Matthew, 109.

life for the better.

Second, liberal theory is ateleological. "[I]t does not project the emergence of a particular historical end state in which humankind will realize perfect freedom."[13] This quality of liberal theory, if taken at face value, is one of its weakest points. Fukuyama in *The End of History*, reveals why liberalism stands or falls based on its ability to deal with this issue. Fukuyama asserts that not only will liberal states be the final form of polity, but that liberal theory will be the final movement of intellectual history as well. Liberalism makes us free to choose our version of the good, a choice that cannot be predetermined under liberal theory. Yet even he recognizes that liberal theory alone cannot maintain itself without a discernible vision of an ideal, though not perfect, society.

The third element of liberal theory is the belief that international cooperation is central to the project of global transformation.[14] This work takes this argument one step further, asserting that solving collective action problems is the central challenge *liberal* international actors face. Robert Keohane's distinction between cooperation and harmony is instructive on this point.

> Cooperation, as compared to harmony, requires active attempts to adjust policies to meet the demands of others. That is, not only does it depend on shared interests, but it emerges from a pattern of discord or potential discord. Without discord, there would be no cooperation, only

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[13] *Ibid.*

[14] *Ibid.*, 110.

> harmony.
>
> It is important to define cooperation as mutual adjustment rather than to view it simply as reflecting a situation in which common interests outweigh conflicting ones. . . . We require this distinction because discord sometimes prevails *even when common interests exist*.[15]

The liberal approach to solving collective action dilemmas has been varied. At times, liberals appeal to interests alone, appearing cynical. As Keohane suggests, interests alone are not enough to explain how cooperation has occurred in the past or how it might be enhanced in the future. On other occasions, liberals have appealed to moral principle alone, appearing foolish. A good part of the reconstructive project in this work involves examining how such problems may be solved successfully by redefining political rationality, or rather, returning to a previous concept of what constitutes the rational as incorporating interests and ethics as well. Both liberals and realists rely upon constricted, narrow views of interests. For liberals, interests can be defined in terms of economics; for realists, interests are defined in terms of the balance of power as a means to peace. A covenantal view of interests is very similar to the view proposed by Tocqueville, what he termed "self-interest rightly understood." As I show in chapter 5, this concept integrates economic interests with moral concerns much better than contemporary liberalism can.

The final element of liberalism is the focus on science

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[15] Robert Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton NJ: Princeton University Press, 1984), 12. Emphasis added.

and technology and the way they have led to increasing global integration.[16] Since the Enlightenment, science has served as a touchstone for what modernity at work looks like. The need for nations to develop scientifically means that they will be on a constant path of convergence. Nations that refuse to promote a culture of science, liberals argue, will find themselves in a hopelessly backwards position.

In defining the premises of liberalism, Charles Kegley cites some similar points to those found in Zacher and Matthew.

> 1. Human nature is essentially "good" or altruistic and people are therefore capable of mutual aid and collaboration.
>
> 2. The fundamental human concern for the welfare of others makes progress possible (that is, the Enlightenment's faith in the possibility of improving civilization was reaffirmed).
>
> 3. Bad human behavior is the product not of evil people but of evil institutions and structural arrangements that motivate people to act selfishly and to harm others--including making war.
>
> 4. War is not inevitable and its frequency can be reduced by eradicating the anarchical conditions that encourage it.
>
> 5. War and injustice are international problems that require collective or multilateral rather than national efforts to eliminate them.
>
> 6. International society must reorganize itself institutionally to eliminate the anarchy that makes problems such as war likely.
>
> 7. This goal is realistic because history suggests that global change and cooperation are not only possible but empirically pervasive.[17]

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[16] Zacher and Matthew, 110.

[17] Charles Kegley, "The Neoliberal Challenge to Realist Theories of World Politics: An Introduction," in *Controversies in International Relations Theory*, 4.

The normative language found in the above descriptions cannot be overlooked. Indeed, it is central to the liberal perspective. Ironically, this language constitutes both what is best and most problematic about liberal theory in politics and diplomacy.

Critiques of Liberal Thought

While liberalism has had some great successes both as theory and in practice, criticisms of its central tenets abound. At the domestic level, liberalism has been attacked by Marxists, communitarians, and postmodern and critical scholars. Unlike realism, liberal international thought is primarily guided by principles of domestic politics.[18] The pacific relations between liberal states--the concern with rights, due process, 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 stated, 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."[19] Both streams, however,

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[18] Kenneth Waltz, "Explaining War," in Viotti and Kauppi, *International Relations Theory*, 126f.

[19] Hans. J. Morgenthau, *Scientific Man Vs. Power Politics*, Midway Reprint Edition (Chicago: University of Chicago, 1974), 41f.

are closely intertwined. Liberalism is the consummately rational theory. Should its rationality fail, this would prove devastating for those trying to make sense of liberal practice and ethical prescriptions.

Debate between Marxists and liberals has been ongoing for more than a century. To revisit this debate here would be of little benefit.[20] However, the communitarian and postmodern critiques of liberal international thought have not been so extensively dealt with.

The communitarian critique of liberalism asserts that, with the rationalization of democratic politics during the Enlightenment, liberalism was placed upon a rational foundation of interests that could counteract the irrational 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."[21] As Hirschman points out, this involved a narrowing of the term which earlier had included pursuits like honor and ambition in the pursuit of glory, the "totality of human aspirations." This broader definition sounds much like

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[20] See, for example, Part Three of Doyle's *Ways of War and Peace*.

[21] Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before its Triumph* (Princeton: Princeton University Press, 1977), 32f. Though Hirschman is not a communitarian, his understanding of the transition in the perception of what interests entailed leads directly to the communitarian critique.

Madison's "ambitions countering ambitions" in the extended republic.[22] Interests, Hirschman states, contain "an element of reflection and calculation with respect to the manner in which these aspirations were to be pursued."[23]

However broadly defined, the pursuit of interests during liberalism's nascence was circumscribed by normative assumptions, most of which were rooted in natural law theory. Over time, 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 man as one guided solely by appetites, concupiscence, and a desire for security. He is soulless and utterly devoid of spiritual sensibilities.[24] 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 critics of liberalism.

Postmodernism presents a different set of problems for

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[22] James Madison, "Federalist 51," in Alexander Hamilton, James Madison, John Jay, *The Federalist Papers*, Ed. Clinton Rossiter (New York: New American Library, 1961), 322.

[23] Hirschman, 32.

[24] Friedrich Nietzsche, "Thus Spoke Zarathustra," First Part, Section 5, in *The Portable Nietzsche*, Walter Kaufman ed. (New York: Viking Press, 1954), 128-131.

liberalism. However frivolous this movement may appear in contemporary practice, it is rooted in a serious critique of modernism and liberalism that cannot be ignored. Postmodernism is a powerful response to modernism precisely because it is a child of modernity. It has sought out the contradictions of modernism in general, and those of the Enlightenment in particular, in order to show that liberalism is, theoretically, a hollow shell. But postmodernist influences on international relations are just beginning to be felt, and their implications for these fields need further explanation and analysis.

While liberal and realist approaches rely upon concepts of human nature to explain international phenomena, postmodern scholars have questioned the very existence of human nature. 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." He hoped to create a new table of values to replace those dying principles handed down by tradition or by the rationality of the Enlightenment. This work contributes to the postmodern corpus by taking seriously the challenge postmodernism brings to the question of how statesmen ought to think about ethics within the sphere of international relations. The postmodern critique of liberalism reveals the way liberal intentions to do good often mask assertions of raw power. The dangers of coercion that is not grounded in

shared values and at least a modicum of consensus is a recurrent theme in postmodern literature. These are points that covenantal paradigm considers of supreme importance as well.

Realist critics of liberal theory, such as Samuel Huntington, Robert Gilpin and John Mearsheimer, point to the fragility of peaceful relationships among nations and reveal the rising possibility of a newly fragmented world based on regional power blocs with incommensurable interests.[25] But what is apparent in both liberal and realist theories is a certain "givenness" to assumptions about the moral objectives of liberalism. 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. They also criticize attempts to expand the jurisdiction of international juridical bodies and the realignment of domestic political structures in favor of democracy, which may involve entangling forms of intervention.

The binary oppositions scholars use to conceptualize arguments reveal the way theories give rise to each other. Liberalism is defined in *opposition* to realism. Both rely on distinctive interpretations of data to make conclusions about

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[25] Samuel Huntington, "The Clash of Civilizations?" in *The Clash of Civilizations: A Foreign Affairs Reader* (New York: Council on Foreign Relations, 1993), 22-49.

human nature. Several scholars such as George Modelski[26] or Robert Keohane[27] have attempted theoretical syntheses that incorporate aspects of both approaches. But the arguments of realists against liberalism are usually empirical, focusing on how liberalism does not account for the role of power in international relations.

Normatively, liberalism and realism are united by a commitment to a type of practical humanism. This humanism generally entails assumptions about the dignity of man and beliefs about rights found in the American Declaration of Independence, the French Declaration of the Rights of Man, the UN Universal Declaration of Human Rights, and the deontic principles of Kantian ethics. Humanism serves as the ethical foundation for liberalism and as a laudable, but complex and distant, goal for realists.[28] Liberals see the way to accomplish this objective through the establishment of

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[26] George Modelski and Kenneth Thompson, *Leading Sectors and World Powers: The Coevolution of Global Economics and Politics* (Columbia, South Carolina: University of South Carolina Press: 1995).

[27] See Keohane, *After Hegemony*.

[28] Modelski is a good example of the wistfulness of some realists. In his book *Leading Sectors and World Powers*, he makes predictions about global order leading to beneficent world government over the next three hundred years. In this and many of his other works, Modelski also uses a punctuated equilibrium model of neo-Darwinism to describe the evolution of global politics. Historically, he asserts, those punctuations have been defined by global wars. When, in 1995, this writer asked him whether the future would be different, his response was very unDarwinian and teleological. He posited that peace was normatively desirable and absolutely necessary given the existence of nuclear weapons. While his point is well-taken, it represents a slide into non-Darwinian theory and appears to be the IR equivalent of the Lamarckians' argument that giraffes' necks grew longer because their parents had to reach higher for leaves to survive. See also George Modelski and Kazimierz Poznanski, "Evolutionary Paradigms in the Social Sciences," *International Studies Quarterly* 40(September 1996), 315-18.

international law and increasing the power of international institutions. Realists believe the surest way to preserve peace and achieve humanist objectives is through the wise application of the balance of power. Morgenthau made an attempt, in *Scientific Man*, to define the substance of wisdom, grounded in an Aristotelian conception of man as a political animal.[29] This comes close to an answer, but Morgenthau remains elusive on this point. He merely notes, in Hellenic terms, that statecraft involves an ongoing heroic struggle rather than a final victory over the evil inherent in human life and politics.

Because realism is defined in opposition to liberalism, while relying upon the same core element of interest (though it is differently defined), realism is subject to some of the same critiques. For this reason, the viability of realism as an alternative to liberalism bears some examination. Where liberals have historically seen interests in economic terms, realists have concentrated on interests as the maintenance of power. Like liberalism, realist theory suffers from a breach between its epistemology and its ethics. In order to see how this breach is manifested in realist theory, this work examines the realist theories of Weber, Morgenthau, E.H. Carr and Henry Kissinger.

Covenant as International Paradigm

Thinkers as diverse as Hegel, Nietzsche, Leo Strauss and

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[29] Morgenthau, *Scientific Man*, 220.

Hannah Arendt, believed that the way out of the theoretical dilemma presented by modernism, the problem of the "last man," is found in a return to the Hellenic world. But it is not enough to stay there. The "discovery" of the individual, and thus of individual dignity, is a modern one. Nothing like it is found in the classical world. This unique emphasis on the individual merits a rescue attempt rather than a wrecking job. The covenantal paradigm provides a means of doing that. Covenant supplies the missing elements in contemporary liberal thought. Because it sees obligations and rights as inextricably linked, covenants secure a place for the individual while protecting the integrity of community. More importantly, covenantal thought sees the limiting of power as a profoundly moral enterprise. The power to do good is also the power to do evil. This is no less true for individuals than for states.

Covenant is the element of social theory that tied together the scholastic age and the early period of liberalism. Spiritually, the covenant was the key component of medieval soteriology, albeit administered through the Church. Jerome's Latin *Vulgate* translation of the Septuagint's Greek *diatheke* (covenant) was *foedus*, itself a translation of the Hebrew *b'rith*.[30] From this word, we derive the English words *faith* and (not coincidentally) *federal*. Here the transition from feudal times to liberal modernity is best seen. As both Nietzsche and Hegel argued, this

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[30] Elazar, *Covenant and Commonwealth*. 28.

transition involved the secularization of Christian assumptions about politics and, most importantly for this paper, about ethics. As time passed, the spiritual element of covenant diminished while the political element increased in importance. But this transition has tremendous implications for the ethical meaning of liberalism, including liberalism as a body of international thought. The foundational maxim of international law, the keystone of international liberalism, is *pacta sunt servanda*, nations ought to keep their covenants. What is best of liberalism, this paper argues, is not that which is found in Hellenic Greece but rather that which is found in this transitional period when the very meaning of liberalism was established. In doing so, we may find that what we are left with is no longer liberal *per se*. We may find ourselves struggling for a new way of expressing the synthesis that emerges from this archaeological expedition. But that will be less a problem of definition than a problem of nomenclature.

Chapter 1 provides a more detailed description of the covenantal paradigm and how it is distinguished from contract. It also describes the entrance of covenant into the modern period, first as theology, and then as social theory. Chapter 2 describes the secularization of covenant and its devolution into contract. The role of Newton and Locke as progenitors of the Enlightenment is central to this story and communicates important points about the epistemic similarities behind the rise of science, the rise of

classical liberal theory, and the misunderstandings of both by later theorists.

Chapter 3 describes the serious anomalies that plague contemporary liberal political ethics at both domestic and international levels. The chapter examines communitarian, postmodern and realist critiques of liberalism that lay bare some of its most serious flaws. It also reveals why neither communitarianism nor postmodernism can provide foundations for a viable political ethic. Chapter 4 applies the same argument to realism, showing the links between neo-Kantianism and realism that undermine realist ethics.

Chapter 5 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[31] and by the attractiveness of federalist solutions to thorny dilemmas at all levels of political organization. Liberal international theory asserts that the liberal domestic model is applicable at the international level. This chapter shows why that argument is correct. Covenantal politics harmonizes power and justice through its emphasis on limiting power, its requirement of federal liberty, and its political realism. In this chapter, all these elements are more specifically detailed and applied.

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[31] These not only include the failures of communist and fascist regimes but also the statism inherent in post-World War II liberal regimes.

Chapter 6 elaborates on the philosophical underpinnings of covenantal theory to show how its epistemology and ethics are connected and how it can be applied at the international level. The epistemic realism of covenantal thought provides a more compelling basis for humanistic ethics than modern liberalism can. In this way, science, as the study of consistently interacting phenomena, and political ethics are intimately connected. I argue that a theory of natural law, the policy implications of which are subject to empirical investigation, is possible. I also address the international implications and characteristics of a covenantal world order. This order, to be properly covenantal, must look much like the *foedus pacificum* (peaceful covenant) Kant described in his *Perpetual Peace*.

In conclusion, I look at the possibility of this order arising in the future. Many indicators lead one to believe that the future will be characterized by bureaucracy rather than liberty. As Tocqueville stated, the egalitarianism that seemed to him to be inevitably victorious, provided both a possibility for improvement of conditions or a recipe for despotism, depending upon the moral conditions of civil society and the structure of institutions. The covenantal society, depicted in *Democracy in America*, is not the result of the inevitable unfolding 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 remains to be constructed by choices for or against that vision.

CHAPTER 1

FROM COVENANTS TO INTERESTS: THE EVOLUTION OF LIBERALISM

Liberal international thought has heralded the rising force of economic globalization that has, particularly since the end of the Cold War, made the world a smaller and smaller place. Despite 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. The upper and middle classes, even in many developing nations, look more like their counterparts in other nations than they do the members of the lower socioeconomic classes in their own country.

Despite the ameliorative aspects of exchanging economic for military competition, questions about this change remain. One of the primary problems of contemporary liberal theory, I shall argue, is its inability to connect interests with collective goods. This was not always the case, however. Liberalism arose from an intellectual milieu--the horizons of covenantal theory--that secured both interests and ethics. In this chapter, I look first at the problem interests present for liberalism as an international ideal. Second, I examine how those problems are addressed by covenant as a paradigmatic replacement of the contractualism of

contemporary liberalism. Finally, I look at how covenant became an internationally-influential mode of thought in the modern period. Additionally, covenant as a mode of organizational structure and behavior enabled some states to succeed in achieving and maintaining global leadership.

Weber and the Problem of the Last Man

In his work *The Protestant Ethic and the Spirit of Capitalism,* Max Weber outlined the monumental transition that occurred four hundred 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. Far from leading to a beneficent Hegelian end of history, Weber saw this process 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.

Weber's work is remarkable not only as a social history of capitalism but also as a history of rationality. For what leads to the iron cage is the transition from *Wertrationalität* to *Zweckratioanlität,* or from value rationality to instrumental rationality.[1] As modernity progressed, the instrumental, the economically rational, or as economists put it, the microrational was emphasized more

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[1] Max Weber, *Economy and Society,* eds. Guenther Roth and Claus Wittich, trans. Ephraim Fischoff *et al,* Volume I (Berkeley: University of California Press), 24f.

and more. The pursuit of interest becomes all consuming while, by these standards, the non-rational and the moral become less and less compelling as sources of action.

Weber's chronicle of this transition is salient to this paper because of the way that liberalism in general adhered to the 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 modernity, Weber remarked:

> The Puritan wanted to work in a calling; we are forced to do so. For when asceticism was carried out of monastic cells and into everyday life and began to dominate worldly morality it did its part in building the tremendous cosmos of the modern economic order. 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.[2]

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[2] Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, introduction by Anthony Giddens, trans. Talcott Parsons (London: Routledge, 1992), 181f.

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."[3]

There is a subtle but important relationship found in these passages between the ethics of modernity and the epistemology upon which they rest. As rationality became more and more synonymous with instrumental rationality alone, the proper realm of rational and ethical decision-making became more and 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.

Allan Bloom examined the impact of Weberian theory on American intellectual life following World War II. He states that American professors "were literally inebriated by the unconscious and values."[4] Weber's assertions about the

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[3] *Ibid.*, 182.

[4] Allan Bloom, *The Closing of the American Mind* (New York: Simon and Schuster, 1987), 149.

complete relativity of values did not raise suspicions with this generation of intellectuals who thought the lessons of Weimar were simply that "the bad guys won."[5] But, as Bloom points out, there is no reason to assume that there are any bad guys in a system of value relativity. If the meaning of life is ultimately rooted in an existential act of aesthetic self-creation, then there is no inherent reason one ought not to suppose that the "bad guys' have not expressed a valid lifestyle choice. Similarly, sociologist Alan Wolfe reflects upon the aporia of modern liberal democratic life, an aporia defined by our need to maintain a belief in our way of life as a good and our inability to articulate any public good.

> 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*. They are, in a word, unclear about the moral codes by which they ought to live. A moral code is a set of rules that define people's obligations to one another. Neither the liberal market nor the democratic state is comfortable with the explicit discussion of the obligations such codes ought to impose. Both view social obligation as a by-product of individual action. . . . When capitalism and liberal democracy combine, people are given the potential to determine for themselves what their obligations to others ought to be, but are then given few satisfactory guidelines on how to fulfill them.[6]

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 the

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[5] *Ibid.*

[6] Alan Wolfe, *Whose Keeper: Social Science and Moral Obligation* (Berkeley: University of California Press, 1989), 2. Emphasis added.

problem individualism entailed for liberal democracy. Individualism, as defined by Tocqueville, was a way of life in which persons became concerned only for the needs and interests of themselves, their immediate family and acquaintances.[7] This way of life, he felt, would lead not to a happy, sustainable democratic polity but, rather, would lay the foundations for the kind of despotic centralization and the withering of civil society he had witnessed in France.[8] Tocqueville saw a direct link between the erosion of non-familial associations and the erosion of freedom. These associations drew individuals out of their homes and schooled them for self-governance. In his commentary on Tocqueville, Pierre Manent sums up the problem democratic man poses for democratic society.

> Tocqueville underscores the fact that democratic man is governed by the dogma of the sovereignty of the people over his individual actions. This dogma is silent on the content or the ends of these actions. The rights of man are deliberately silent on the ends of man. The more that man considers himself as a being who possesses rights, the more the guarantee of these rights progresses, the more the question of ends is put back, and the silence becomes deafening.[9]

Herein lies the problem for contemporary liberal international thought. Perhaps its greatest dilemma is how to go about solving collective action problems. This dilemma is a profoundly moral one. Nations, and their leaders, must be

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[7] Alexis De Tocqueville, *Democracy in America*, ed. J.P. Mayer, trans. George Lawrence, Perennial Library Edition (New York: Harper & Row, 1988), 506-508.

[8] *Ibid.*, 509-513.

[9] Pierre Manent, *Tocqueville and the Nature of Democracy*, trans. John Waggoner (Lanham MD: Rowman & Littlefield Publishers, 1996), xiiif.

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 nation 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, though that was its original intent.[10] The disjunction has become severe and debilitating.

Robert H. Cox, discussing the continuing relevance of the nation-state in the new world order, reflects on how Jürgen Habermas and Claus Offe define a contradiction within a system. Cox states: "For them, a contradiction is the tendency of a system to undermine itself."[11] In addition, he

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[10] Herbert Marcuse, *One Dimensional Man* (Boston: Beacon Press, 1966), 125.

[11] Robert H. Cox, "Demystifying the Nation-State: Its Relevance to the New World Order." Chapter in *Nation or Integration: Perspectives on Europe in the 90's*, ed. Ulf Hedetoft (Aalborg Denmark: Aalborg University, 1993), 28.

quotes Offe's statement that "a contradiction is the tendency inherent within a specific mode of production to destroy those very pre-conditions on which its survival depends."[12] Habermas asserts that, as this process continues, there will arise a crisis of legitimacy in which the system may collapse. This is precisely the problem that liberalism faces. 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,[13] the vast majority appear to be terribly un-self-conscious 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. The moral assumptions of these writers are of great importance. 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 present us with a

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[12] *Ibid.*, 32.

[13] Francis Fukuyama's work is the best example of this recognition. See his *The End of History and the Last Man* (New York: The Free Press, 1992, Avon Books, 1993).

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 ignores the unitary narrative thread uniting classical liberal rationality with modern rationality.

Covenant as Paradigm

Daniel Elazar is known best for his work on American federalism and Israeli politics. Both subjects led him to examine more closely the concept of covenant. Elazar has written five volumes on the relationship between covenants in history and politics. This scholar, who wrote so eloquently on the subject of contemporary liberal practice in America, has much to say about liberalism's philosophical origins and historical development as well.

At the beginning of *Covenant and Commonwealth,* Elazar discusses the differences between covenantal governance and the two other forms found in political history. Taking his cue from *The Federalist #1,* he states that regimes may be organic (accidental/traditional), hierarchic, or covenantal/federal (implemented by design).[14] Regimes of the first type arise through tradition and are rooted in the non-rational. The same may be said, to some degree, of hierarchical regimes whose legitimacy rests in some

[14] Elazar, *Covenant and Commonwealth,* 2.

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 may, in a short-term or individual sense, be contrary to one's economic interests. Covenantal regimes order public/market relationships in particular ways that are not always purely consistent with these interests.

Elazar makes important distinctions between covenants, compacts, and contracts. 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 purposes of this discussion, the differences between covenant and compact are relatively unimportant. But contract is another matter entirely.

> Both covenants and compacts differ from contracts in that the first two are constitutional or public, and the last private in character. As such, covenantal 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.
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> A covenant differs from a compact in that its morally binding dimension takes precedence over its legal dimension.

> In its heart of hearts, a covenant is an agreement in which a higher moral force, traditionally God, is either a direct party to, or a guarantor of, the particular relationship. A compact, based as it is on mutual pledges rather than guarantees by or before a higher authority, rests more heavily on a legal though still ethical grounding for its politics. In other words compact is a secular phenomenon.[15]

Each form of association carries its own ethical assumptions. As Elazar notes, contract has a very limited understanding of obligations. The same is true, Fukuyama contends, for the contractual society of Anglo-Saxon liberal thought. As chapter 4 shows, German theorists, in particular, found the contractual society repulsive. Searching for ethical moorings not provided by Anglo-Saxon thought, they turned to a notion of ethics that was transcendent but unreachable. Much of modern realism owes its own ethical conceptions to German thought and, as a result, its ethics suffers from a disharmony between the actual and the possible in political life. Covenantal thought, however, provides 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.

Jewish thought never had difficulty in reconciling the two realms of interests and public goods. The Tanach is rife with the Jewish deity placing transcendent ethical commands in consequentialist terminology, explaining the relationship between "hearkening" and blessing. As Elazar points out,

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[15] *Ibid.*, 1f.

there is no word in ancient Hebrew for "obedience."[16] 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, 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 explains how the problem of reconciling the needs of the marketplace with the commonwealth concept was solved in Puritan communities.

> John Winthrop, the first governor of Massachusetts Bay Colony addressed [the problem] aboard the Arabella on the voyage over and suggested the reconciliation of the two through the Puritan's covenant with God. He specified the articles of that covenant as a practical guide to that reconciliation. In true covenantal style, Winthrop's discussion emphasized the obligations on the rich to help the poor, not the virtues of the poor or any rights of theirs to that help. A proper Christian thus was obligated to reconcile charity and commerce and to provide his share of Christian charity for those less fortunate than he, no matter whether the recipients were deserving or not.
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> Covenant, then, was designed to mediate between self-interest and conscience, material means and transcendental

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[16] Daniel Elazar, *Covenant & Polity in Biblical Israel: Biblical Foundations & Jewish Expression* (New Brunswick, NJ: Transaction Publishers, 1995), 70f.

> ends, and personal and collective destinies in the commonwealth.[17]

In this pre-liberal period, interests and moral obligations are mediated by the covenantal form in which community, and all that it entails, is based upon original consent. In the American instance, this took place in what looked very much like the state of nature, decades before John Locke's attempts to justify theoretically the Glorious Revolution in his *Second Treatise of Government*. As one historian of the American founding has stated, "In temporal terms, it makes more sense to call Locke an American than it does to call America Lockean."[18] This was because of the previous existence in the colonies of the principles of popular sovereignty and limited and enumerated powers of government. But even more important was the existence of a political culture that could support these principles and mediate between interests and obligations. This culture was rooted in the idea of what Winthrop called "federal liberty" as opposed to "natural liberty." The former concerned "the proper end and object of authority and cannot subsist without it; and it is a liberty to that [sic] 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.*"[19]

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[17] *Ibid.*, 22.

[18] Donald Lutz, *The Origins of American Constitutionalism* (Baton Rouge: Louisiana State University Press, 1988), 11.

[19] Quoted in Daniel Elazar, *Covenant and Constitutionalism*, The Covenant Tradition in Politics Series, Volume III (Brunswick NJ: Transaction Publishers, 1998), 26. Emphasis added.

Natural liberty, in contrast, resembles freedom in the post-Mill period of 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."[20] In other words, one has the freedom to do what one will so long as no one else is harmed. The morally autonomous individual should not be impeded in pursuing her interests as 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. Fukuyama, proclaiming liberalism to be the end of history, states that liberal democracies "are not self-sufficient,"[21] and that "liberalism must reach beyond its own principles to succeed."[22]

The essence, then, of the commonwealth concept is the presence of *all* of 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 all of these elements, the federal or covenantal commonwealth devolves into some other type of order. Without federal liberty, one might have a libertarian polity in which market principles reign supreme and obligations are purely voluntary. Without limited and

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[20] *Ibid.*, 27.

[21] Fukuyama, *The End of History*, 326.

[22] *Ibid.*, 222.

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 the public good. This last scenario could well describe the problem with the regime envisioned by Rousseau that, in some ways, came into being during the French Revolution. Certainly the regime of the *Contrat Social* entailed a pursuit of the public good; but it lacked the ordered restraint of American practice. For this reason, Tocqueville felt that the American experiment in liberty, rooted as it was in the federal approach, was superior to that of the French, whose new order led to an oppressive centralization of power.

The Covenant Paradigm as Replacement for Contract

Elazar is certainly not the only contemporary political theorist to discuss the covenantal paradigm. Michael Walzer portrays covenantal thought as the root of egalitarian revolutionary and Reformational ideology.[23] In addition, Aaron Wildavsky has written on the implications of covenant for political regime type and leadership.[24] 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 underlying late liberalism has fallen into greater disfavor,

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[23] See especially Michael Walzer, *Exodus and Revolution* (New York: Harper Collins, 1985).

[24] Aaron Wildavsky, *The Nursing Father: Moses as a Political Leader* (Tuscaloosa, Alabama: University of Alabama Press, 1984).

the covenantal paradigm is increasingly taking its place.

Many physicians and bioethicists have turned to covenant to replace the contractual model in medicine. 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."[25] 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."[26]

In the field of social work and sociology, contractual theory has been woefully inadequate in describing social relations either empirically or normatively. Fukuyama alludes to this when he states, "[F]amilies don't really work if they

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[25] Ralph Crawshaw *et al*, "Patient-Physician Covenant," *JAMA* 273 (1995), 1553. With regards to other medical and public health uses of covenantal theory, see also W.E. May, "The Physician's Covenant: Images of the Healer in Medical Ethics (Philadelphia: Westminster Press, 1983), and "Code and Covenant or Philanthropy and Contract," in S.J. Reiser ed., *Ethics in Medicine: Historical Perspectives and Contemporary Concerns* (Cambridge, Mass.: MIT Press, 1977); D.A Landis, "Physician Distinguish Thyself: Conflict and Covenant in a Physician's Moral Development," *Perspectives in Biology and Medicine* 36(1993), 628-641; C.K. Cassell, "The Patient-Physician Covenant: An Affirmation of Asklepios," *Annals of Internal Medicine* 124(1996), 604-606; Joseph J. Fin, "Commentary: From Contract to Covenant in Advance Care Planning," *Journal of Law, Medicine & Ethics* 27(1999), 46-56; and P. Ramsey, *The Patient as Person* (New Haven, CT.: Yale University Press, 1970). Ramsey specifically relies upon theological language to ground the ethic of his theory citing the New Testament Greek equivalent of the Hebrew *hesed* or "covenant lovingkindness": *agape* (xiii).

[26] John J. Ring, "Letter to the Editor," *JAMA* 274(1995), 1265.

are based on liberal principles, that is if their members regard them as they would a joint-stock company, formed for utility rather than being based on ties of duty and love."[27] 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*.[28] 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.[29] She argues that contractual models promote minimal efforts by professionals in treatment relationships as well as the legalization of those relationships. Covenants, she states, focus on the centrality of obligations, trust, and long-term commitment.[30]

Walter Brueggemann outlines the possibilities for a new normative sociology that relies on covenantal premises. He foresees a time when it might be possible to construct a world "transformed to covenanting, by the dismantling of imperial reality. . . ."[31] In the field of jurisprudence,

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[27] Fukuyama, *The End of History*, 324.

[28] John O'Neill, *The Missing Child in Liberal Theory: Towards a Covenant Theory of Family, Community, Welfare and the Civic State* (Toronto: University of Toronto, 1994).

[29] Pamela Miller, "Covenant Model for Professional Relationships: An Alternative to the Contract Model," *Social Work* 35(1990), 121-125.

[30] *Ibid.*, 123.

[31] Walter Brueggemann, "Covenant as a Subversive Paradigm," *The*

Janet Moore has attempted something similar. Moore constructs a social theory on covenantal (and feminist) grounds, clearly distinguished from the contractual model.

> I contend that a carefully constructed, covenant-based political ethic will demand respect for universal human dignity. . . . Thus, a covenant-based theory of justice will require that liberalism surrender not only the myth of the atomistic individual, but, simultaneously, her untrammeled freedom to pursue her subjectively chosen ends. This will be particularly true when such "choices" maintain or exacerbate conditions of domination and exclusion, or the spiritual and political malaise that reciprocally feeds, and feeds upon, those conditions.[32]

Moore, like Elazar, distinguishes between the absolute autonomy of moral choice in liberal theory and 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.

> I present covenant within the context of a specific, feminist critique, committed to a vision of justice as universal dignity that reveals, and seeks to revolutionize, patterns of exclusion and domination. Within this context, I claim the U.S. Constitution retains paradigmatic covenantal--and emancipatory--potential, and call for renewed dedication to its realization. And, within this context, KKK members would bear an insurmountable burden in defining their commitments as covenantal.[33]

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

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Christian Century 97(1980), 1099.

[32] Janet Moore, "Covenant And Feminist Reconstructions Of Subjectivity Within Theories Of Justice," *Law and Contemporary Problems* 55(Summer 1992), 160f.

[33] *Ibid.*, 181.

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.

Finally, there is covenant as a form of political justification for particular forms of regime or policy. Elazar is probably the most prolific spokesman for the former. Elazar himself has called 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.[34]

At the domestic level, both President Bill Clinton and Prime Minister Tony Blair discussed their agendas in covenantal terms. Blair has followed words with covenantal action, with power devolving from London to Wales and Scotland. In a striking example of Elazar's paradigm shift, Blair has reversed the centuries-long accretion of administrative power to the center. This devolution does not allow complete autonomy in these regions, but the freedom to accomplish public tasks in ways other than those dictated by London. His government also committed itself to a federal

[34] Daniel Elazar, "From Statism to Federalism--A Paradigm Shift," *Publius* 17 (October 1996), 422.

solution to the Northern Ireland conflict. The structure of the Irish solution is covenantal, involving power-sharing tied to a sense of realism about the claims of each side. Whether it also meets the covenantal requirement of being substantively ethical remains to be seen.

In the Clinton Administration, Bruce Babbitt, the Secretary of the Interior, has 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.[35] Al Gore has used similar language to describe his own environmental policy agenda.[36] Many agreements in international law are termed covenants, stressing moral qualities more than legal ones.[37] Many of these treaties do not have the force of domestically applicable law, yet they provide goals which signatory states have committed to achieve. Liberals like Woodrow Wilson also relied on covenantal language to describe a normative vision

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[35] Bruce Babbitt, "Between the Flood and the Rainbow: Our Covenant to Protect the Whole of Creation," *Vital Speeches* 62 (February 15, 1996), 281-283.

[36] Albert Gore, *Earth in the Balance: ecology and the human spirit* (Boston: Houghton Mifflin, 1992).

[37] See, for example, *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*, both of which can be found at *University of Minnesota's Human Rights Library*. University of Minnesota. 26 February 1999. <http://www1.umn.edu/humanrts/instree/auob.htm>.

for international relations.[38]

These examples point to the emergence of covenant as a paradigmatic replacement for contract. Covenant revives a way of thinking about human relationships that has been in existence for millennia. Despite its theopolitical origins, it is not parochially confined to one religious group or geographic region. 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.[39] Because of a political culture amenable to covenant as a means of social organization, these nations were all affected by the social consequences of the Reformation. As Elazar argues, the Reformation was the

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[38] Wilson's Scottish Presbyterian background, with its heavy emphasis on covenant, remained one of the great influences on his political beliefs throughout his life. It was no accident that the League of Nations agreement was termed a "covenant." In 1918, in a speech in Britain, he stated, " I wish we could, not only for for Great Britain and the United States, but for France and Italy and the world, enter into a great league and covenant, declaring ourselves, first of all, friends of mankind and uniting ourselves together for the maintenance and the triumph of right." Woodrow Wilson, "Speech in Manchester England. 30 Dec. 1918, *Public Papers of Woodrow Wilson: War and Peace*, eds. Arthur S. Link, David W. Hirst, John E. Little, John Wells Davidson *et al* (Princeton, NJ: 1966-1977), 355f; qouted in John M. Mulder, *Woodrow Wilson: The Years of Preparation* (Princeton, N.J.: Princeton University Press, 1978), 274. Mulder's book is an excellent source for those seeking to understand the relationship between Wilson's theological background and his policy decisions and view of political ethics.

[39] Elazar, *Covenant and Commonwealth*. Elazar discusses these oath societies in some detail. On Germany, see 73-79. On Holland, see 102-105. On Switzerland, see 100-102. On Scandinavia, see 107-123. On East Anglia and Scotland, see 113. On other areas of Britain, see 125-131.

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 whole new ontological perspective. 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 Social Origins of Liberal Practice

The characteristics of the covenantal social order are found in the complex social arrangements that arose out of the late Renaissance and the Reformation. 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. 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 in its original Hebrew. The primary element uniting the late Renaissance with the Reformation is this commitment to scholarly study of Hebrew thought. 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.[40] 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.

While the Renaissance brought about a number of remarkable achievements, few were as important as the rise of textual criticism. The return to ancient and biblical texts was to have great import for the development of a new way of ordering religious practice that itself would profoundly affect political practice. As one historian states:

> [J]ust as now, in their own age, good letters were being raised as from the grave, painting and music and sculpture reborn, so also religion was sharing in the same *renovatio* or renewal, the same *reformatio* or reformation (a usage that was to form one link between the revival of letters and the Protestant Reformation), as a reviving knowledge of the early church showed how Christianity could be stripped of the vain accretions of centuries and restored to its ancient purity and simplicity."[41]

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[40] For an excellent account of the formation of this synthesis in law, see Harold Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Mass.: Harvard University Press, 1983).

[41] John A. Garraty and Peter Gay eds., *The Columbia History of the World* (New York: Harper & Row: 1972; Dorset, 1981), 483.

Many of these accretions, of course, involved the hierarchical power of the Catholic Church and the form of worship it entailed.[42] As Robert Putnam points out, however, Church power was not absent in northern Italy; it was fundamentally altered. 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.[43] It was not the absence of piety that led to such a rearrangement of ecclesiastical structure. This was, in fact, a very pious period in northern Italy. To some degree, the fact that political life in the North emphasized the communal naturally led to a deemphasis on ecclesiastical power. In addition, an increasing desire to uncover the original meanings of texts led just as naturally to a dissemination of scholarship not controlled by Church authority. One scholar of the Renaissance-Reformation transition, Bard Thompson, writes:

> [W]hat was the early Protestant view of history? It was no more and no less the historiography of the Renaissance. The ancient world, while remote in time, was near in sentiment; the medieval world, while near in time, was remote in sentiment. The intellectual problem of the Reformation was exactly that of the Renaissance: to return to the sources, the roots. When Luther, however, said "sources," he meant the Bible; when he said "the golden age," he meant Christianity before there were popes: when he said "dark

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[42] Elazar argues that the shift from covenant to organic ecclesiastical and then political governance is synonymous with the medieval period. "[F]or more than a millennium in Europe, the covenantal or federal model of civil society was largely supplanted by an organic-pyramidal model embodied in the Corpus Christianum and representing a mix of imperial, paternal, ecclesiastical, and feudal governance." Quoted in Elazar, *Covenant and Commonwealth*, 40f.

[43] Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton NJ: Princeton University Press, 1993), 127.

> ages," he meant a medieval world irreparably spoiled by superstition, Scholastic theology, barbarous Latin, and so on.[44]

Elazar believes the link between the Renaissance and Reformation lies in the attention that scholars of both periods gave to Hebrew and Aramaic texts in particular. The effects of this renewal of interest were seen in the similarity of "form and language of Jewish congregational compacts and those of Reformed Protestant congregations."[45] 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 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*.[46] The form of church governance implied by the practice of those engaged in "synagoguing" looked nothing like the authoritarian structure of the medieval church. It implied rather "a separation from the organic and hierarchical dimensions of medieval Catholic Christendom and a return to the covenantal thinking of biblical Israel."[47]

The Renaissance gave birth to these Christian Hebraists who revived the Jewish approach to church governance and

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[44] Bard Thompson, *Humanists & Reformers: A History of the Renaissance and Reformation* (Cambridge, UK: Wm. B. Eerdman's, 1996), 373.

[45] Elazar, *Covenant and Commonwealth*, 44.

[46] Pros Ebraious 10:25 (Textus Receptus). The full passage reads, "...me egkataleipontes ten episunagogen euaton kathos ethos tisin, alla parakalountes kai tosouto mallon oso blepete eggizousan ten emeran."

[47] Elazar, *Covenant and Commonwealth*, 44.

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 Renaissance 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 Melancthon, the latter of which 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, now was 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 the *most* holy of professions, noting that unless there were godly leaders, the gospel could not be preached. This belief would translate easily into the social reform movements in later centuries in both their secular and religious incarnations.

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. Once the pessimism and mistrust of human power was removed, the potential for succumbing to unrealistic political expectations became 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.[48]

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[48] John Calvin, *The Institutes of the Christian Religion*, Volume IV, trans. Henry Beveridge (Grand Rapids, Michigan: Wm. B. Eerdmans, 1966), 675.

This statement 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's 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 Ancient Sparta. Additionally, Melanchton 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.[49]

It was left to those who studied with Calvin in Geneva, John Knox, Theodore Beza, and others, to apply these doctrines to

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[49] *Ibid.*, 656f.

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 modernity[50]--who would dramatically alter the political landscape of Europe.

Calvinism as Revolutionary International Ideology

Calvin expressly admonished the Huguenots against rebellion, but by the 1570s the *Vindicia 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.[51] John Knox, who wrote in 1556 that Geneva was "the maist perfyt 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.[52]

In France and the southern region of the Netherlands, Calvinism clearly took on political and military characteristics in the form of active resistance. Horizontal

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[50] See Michael Walzer's *The Revolution of the Saints: A Study in the Origins of Radical Politics* (London: 1966). Walzer's position on the relationship between Calvin and modernity is complex to say the least. Essentially, he asserts that there is little relationship between Calvin's theology and modernity. But he distinguishes between theology and Calvinist "ideology," a term which seems to describe a state of mind rather than a particular theoretical perspective. Thus the Calvinist saint, under the influence of an ideology of change, is an agent of revolution and modern radicalism.

[51] Quentin Skinner, *The Age of Reformation,* Volume II in *Foundations of Modern Political Thought* Series (Cambridge: 1978), 240.

[52] Garraty and Gay, 529.

ecclesiastical structures were easily converted into effective political organizations that targeted Catholic monarchs of both nations. In the Netherlands, Calvinists met with success in ridding themselves of Charles V and assisting the revolution of William of Orange. One of the most widely distributed pamphlets justifying resistance to the Spanish was written by "Eusebius Montanus," who argued William of Orange was just the sort of "lesser magistrate" anticipated by Calvin's theory.[53] In France, they met with defeat. They were killed or expelled, fleeing to England or the Netherlands.

The English Puritans 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 government must be based on some consensual element, the divine right theory of government was unacceptable to Puritans. Parliament was viewed as the legitimate source of political authority. This development led to one of the internal contradictions of the Puritan Revolution that Locke himself, much later, had to deal with 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 and they highlight the conflict between the organic-traditional form of politics and the covenantal.

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[53] Cited in Skinner, 215.

Covenant as Ontological Egalitarianism

Limitations on individual liberty could only be justified by an appeal to organic tradition, as could a whole host of other limitations on political participation or equality. 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."[54] 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 Lillburne 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. Indeed, he refers to them as "the spiritual founders of the American founding."

To say it again: the theory of equal and individual rights

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[54] Jacqueline Stevens, "The Reasonableness of John Locke's Majority: Property Rights, Consent, and Resistance in the *Second Treatise*," *Political Theory* 24(August 1996), 424.

> (personal and political) is now almost universally professed. We should remember, however, that it did not crystallize until the seventeenth century. Though fed from many earlier sources, the theory together with the heightened sentiments that had to inspire and accompany it may be said to have got its start in England among radical Protestants. Within the Independents (also named Congregationalists) a certain group, derisively called Levellers, practically originated the modern theory of rights in almost its entirety.[55]

At the same time, a phenomenon historian Lawrence Stone calls "affective individualism" began to spread both in England and in the colonies.[56] 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."[57] In 1689, 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

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[55] George Kateb, *The Inner Ocean: Individualism and Democratic Culture* (Ithaca: Cornell University Press, 1992), 9.

[56] Lawrence Stone, *The Family, Sex and Marriage In England: 1500-1800,* Abridged Edition (New York: Harper & Row, 1979), 149-152.

[57] *Ibid.*, 149. Emphasis added.

or depending upon the will of any other man."[58]

As Weber points out, there was always a strong spirit of 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. As Stone puts it, "Puritanism, introspection, literacy and privacy form a single affinity group of characteristics."[59]

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 the appeal to ontological equality of covenantal theory,[60] appear in the mid-seventeenth century as well. The new role for women was already being seen before the military conflict with the Crown had begun. By the early 1640's, in some independent churches, women participated in church debates, voted, spoke prophetically, and preached.[61] As was the case with Puritanism as a whole, what began as church reform quickly made its way into politics. In 1642, a group of several hundred women petitioned Parliament for economic relief from the hardships resulting from a loss of trade. When they were rebuffed by

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[58] *Ibid.*

[59] *Ibid.*, 152.

[60] These proto-feminists were inspired by such passages as Galatians 3: 28 (NIV) in which the Apostle Paul writes: "There is neither Jew nor Greek, slave nor free, male nor female, for you are all one in Christ Jesus."

[61] Stone, 225.

the Duke of Richmond, they physically attacked him, breaking his staff of office.[62] 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.[63] John Lillburne 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.[64]

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 cited the role of Esther as savior of the Jewish people and claimed that, in the conflict of Saxon against Dane and the overthrow of the Episcopal tyranny in Scotland, women had taken the initiative against oppression.[65]

This nascent women's movement was not to succeed in the seventeenth century. Whatever their status in theory, women

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[62] *Ibid.*

[63] *Ibid.*, 226.

[64] John Lillburne, "The Free Man's Freedom Vindicated", in T.C. Pease, *The Leveller Movement* (Washington D.C.: 1916), 11f; quoted in Peter Laslett's *The World We Have Lost: England Before the Industrial Age*, Third Edition (New York: Charles Scribner's Sons, 1984), 219.

[65] Stone, 226.

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 such an extension outright.[66]

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 highlight 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

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[66] Laslett, 222. These two examples are chosen because of the title of the treatise to which they were both responding. Given the fact that they were both influenced by Puritan revolutionary writings, one must assume that their liberal theories were deliberately less inclusive.

or, for that matter, poor men. But as one historian of feminism states:

> [Women] drew their power to challenge established religion and the sexual hierarchies it instituted from Puritanism itself. . . . The radical potential of the individual and its corollary--the spiritual equality of each individual regardless of sex--caused tension in a society based on female subordination and finally created an avenue for women to question that subordination. . . . In subsequent centuries it was this 'wayward' and radically individualistic Puritan *woman* who would becomes an icon of the feminist individual, challenging a culture that on the one hand celebrates individualism and on the other hand limits, by gender and race, its realization.[67]

This last statement is particularly important. 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, nationality, even recently, sexual orientation. 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

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[67] Dawn Keetley and John Pettegrew, *Public Women, Public Words: A Documentary History of American Feminism, Volume I: Beginnings To 1900* (Madison WI: Madison House Publishers, 1997), 3f. Emphasis in the original.

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 English 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 classified, coordinated, foreseen, and decided in advance. In the world of politics everything is in turmoil, contested, and uncertain. In the one case obedience is passive, though voluntary; in the other there is independence, contempt of experience, and jealousy of all authority."[68]

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.[69]

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

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68 Tocqueville, 47.

69 John Cotton, "Limitation Of Government," in *An Exposition upon the 13th Chapter of the Revelation* (London 1656), 71-73; quoted in Perry Miller and Thomas Johnson, *The Puritans* (New York: American Book Company, 1938), 212f. Emphasis added.

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: *praetera Locke 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 visions of the 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 the beneficent American 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 solution 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, "can contribute wonderfully to the ephemeral greatness of one man but not to the permanent prosperity of a people."[70] 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 general laws and the nation's relations with foreigners."[71] 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."[72] 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

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[70] Tocqueville, 88.

[71] *Ibid.*, 87.

[72] James Madison, "Federalist 10," 83.

definition of a covenantal concept of authority.

The second reason the American experience is important is that, unlike the English or French (or Russian) revolutions, the American colonies had to solve a particularly difficult collective action problem under the severest of circumstances. To do so, the leaders of the revolution appealed not to interests *per se* but rather to a moral vision, a compact with profound ethical implications. And they pledged to remain faithful to this vision even if, in the end, it proved injurious to themselves. That is not to say that there were no commercial interests at stake, but rather that the ideals of the revolution encompassed much more than financial interest. The vision of the commonwealth profoundly affected the domestic order of the US. Yet covenant is larger than domestic politics. Its effects on organizational culture, and the capabilities that arise from that culture, are visible at the international level as well.

Covenant as the Organizational Culture of Global Leadership

In this chapter, I have primarily focused upon intellectual and political developments in England and the United States. The philosophical evolution of politics described herein is seen most powerfully in these nations. Yet the political consequences of these ideas profoundly altered other nations as well. Switzerland, Scotland, the Netherlands, England and the U.S. were all changed by reformers and their migration to new environments.

One might also note that of these nations, the latter three are the successive global hegemons of the modern period.[73] This fact is difficult to ascribe to coincidence or luck. There was something about the effects of federal principles of organization, and the habits of mind they produced, that had a lasting effect on these nations. George Modelski points out that the advantages held by these global powers were fourfold: they had global reach and power projection capabilities; they had comparatively open societies; they invented and produced lead technologies; and they responded to global problems such as the need for open trade across the seas.[74]

In the case of Britain and the Netherlands, these attributes had already been incorporated as policy before the rise of liberalism. One might even argue that many liberal nations are wealthy and powerful not because they are liberal, but because of circumstances that led to both economic development and political freedom simultaneously. This is something that contemporary liberal theory has difficulty accounting for. There is no guarantee that the morally autonomous individual, motivated by interests, will rise to the task of helping to solve collective action problems at the domestic level. Nor is there any clear reason

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[73] On this point see Modelski and Thompson's *Leading Sectors and World Powers* and Paul Kennedy's *The Rise and Fall of the Great Powers* (New York: Random House, 1987).

[74] George Modelski, "From Leadership to Organization: The Evolution of Global Politics," Unpublished paper presented to the XIIIth World Congress of Sociology in Bielefeld Germany, July 18-23, 1994, 14.

why nations made up of politically empowered interest-seeking individuals will choose to do so at the international level.

As one of the premier historians of global politics, Modelski himself does not inquire too closely about the relationships between Reformational thought and the identity of hegemonic powers. In his work on long cycles and global politics, he does give some detail about the rise of transnational linkages within the "Calvinist International," that collection of powers affected by the new religion in the sixteenth century. But he remains agnostic on what he terms "the Weberian question," that is, the influence of Reformed thought on overall political and social organization. He states:

> For students of long cycles the question may be rephrased as follows: what explains the predominance of Protestant states in positions of global leadership from the Dutch cycle [seventeenth century] onward? Why is it that the world powers have been predominantly Protestant?[75]

Modelski has no answer to this question, as he himself plainly states.[76] The answer, however, lies in the power of the covenantal ideal as a form of social organization in elevating its practitioners into positions of economic, then national, then global power. Like Skinner and Walzer, Modelski wants to make it clear that he is not asserting any direct relationship between theology and the dynamism of modernity. But to the degree that, as Weber believed, theology affected patterns of political organization, their

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[75] George Modelski and Sylvia Modelski eds., *Documenting Global Leadership* (London: Macmillan Press, 1988), 111.

[76] *Ibid.*, 112.

analyses appear incomplete.

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 voluntary 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 state. 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 just such principles.

The transformation of theology into secular, unversalizable 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 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.

CHAPTER 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, the chapter revealed how 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. During the early Enlightenment, classical liberals rendered politics rational by an appeal to interests, considered within the context of natural law. This conception was not at all far from that of Reformed thinkers. It 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, an act which led political ethics in two profoundly different directions. 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 Weber as instrumental. Consequently, to many thinkers on the Continent, it lacked transcendence of any kind and had all the aesthetic attractiveness of a nineteenth-century British industrial town. In response to this instrumental conception of political ethics, German thinkers, in particular, often turned to an ethic of transcendence, something detailed further in Chapter 4. Kant is the most important of these thinkers because his solution to the problem of uniting ethics and interests affected nearly all ethical thought that followed. His theory also led German philosophers in the direction of radically separating individual and political ethics. While Kant provided a transcendent basis for morality, that basis was in the end untenable, leading many German thinkers and statesmen to the conclusion that morality was a personal matter; statesman must recognize that politics involves a diabolical contract with evil in order to bring about good.

Liberals also adopted much of Kant's philosophy, especially his epistemology and ethics. Deontology is the most common ethical theory in liberal international thought. But Kant's thought, as it influenced international thinkers, presented serious problems for international ethics, problems highlighted in the next chapter.

After the decline of classical liberalism, covenant went underground, not to reemerge until after World War II.

Political ethics followed the path of the philosophy of science after the demise of natural law theory. First came positivism; then postmodern skepticism. Neither explain the rise of science nor how it is sustained as a practice. Nor do they provide a basis for humanistic political ethics.

To show how this philosophical evolution occurred, this chapter begins with a discussion of the relationship between the metaphysical and epistemic cultural matrix that led to modern science. I then discuss the origins of the Enlightenment and Locke's thought in particular. I show how Locke and other early Enlightenment figures integrated ethics and interests. Following this, I examine the separation of ethics and interests and Kant's response to this separation. The chapter moves ahead to positivism and Weber, who integrated Kantian theory and positivism in a way critical for liberals and realists. Weber's separation of ethical or value-rationality and instrumental rationality as a normative principle is important because both international traditions rely upon it, leading to contradictions in their political ethics. The substance of those contradictions are discussed in Chapters 3 and 4.

Newton, Locke, and the Origins of Enlightenment Rationality

The epistemic realism of the period just prior to the Enlightenment appears naive 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. Yet, that realism provided an epistemological basis for the continuation of scientific activity. 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.

Science, as a means of investigation of nature and organizing knowledge, has much in common with political ethics. Both require a sense of epistemic realism to be systematically coherent. As Hume showed, belief in the uniformity and intelligibility of phenomena is not obvious or necessary.[1] Postmodernism reveals why the same can be said for political ethics.

Isaac 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

[1] This point is etymologically confirmed when one considers that the Greek root of "epistemology" is *pistis*, that can be translated as "faith" or "belief." It is similar to the Latin *credere*. When one considers the connection of "faith" to *foedus*, the relationship between scientific and covenantal epistemologies becomes clearer. Putnam, in *Making Democracy Work*, links *credere* to the invention of credit and bonds of social capital. (128). This also highlights the relationship between trust as an independent variable and a number of dependent outcomes in a variety of spheres: science, economics, and politics, among others. In all of these spheres, belief, as credibility or reliability of perception, is critical to the establishment of successful practices.

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 was obsessed with Newton's ability to summarize universal motion with one elegant equation. 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. He stated, in 1791, that Napoleon must land in Portugal and, when confronted with the fact that the great leader had landed in Egypt, he insisted the news was false.[2] These examples reflect the difficulty the *a priori* approach presented, not just for cosmology, but for social theory as well.

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

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[2] Cited in Stanley Jaki, *The Road of Science and the Ways to God* (Chicago: University of Chicago Press, 1980), 115.

of primary colors. His rational debunking seemed to be just what was needed for the inquiry into human affairs.

John Locke, an avid reader of Newton's works, applied a rational approach-- more akin to Newton's than to Kant's--to politics. His *Two Treatises on Civil Government,* appeared in 1690. His work on epistemology, *An Inquiry into Human Understanding,* was published that same year. This latter work was celebrated as a model of rational inquiry, pushing aside all the complicated elements of non-rational thought in favor of empirical clarity. Of the two, Locke's *Inquiry,* rather than the political works, tended to be most influential on American readers during the founding period.[3]

In many ways, the Enlightenment as a movement took its bearings from these two theorists. As John Garraty and Peter Gay put it:

> The appeal of the Enlightenment was that it undercut . . . [the] clutter by proposing the great simplicities. Just as the philosophes mocked at the Ptolemaic scheme's trying to cope with celestial movements by hooking orbits upon orbits, and said, "Follow Newton instead and all is clear," so in human affairs they said: "Begin with Locke and all follows."[4]

What is striking about the reliance upon these thinkers, however, is the way their thought is narrowed and reinterpreted to fit the desires and assumptions of later Enlightenment theorists. In some ways, the story of that transition is the story of the transition of liberalism

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[3] Donald Lutz, "The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought," *American Political Science Review* 78(March 1984), 196.

[4] Garraty and Gay, 701.

itself from its classical to modern formulations. In modern liberalism, the complexity of relationships and ethical obligations has been stripped away and replaced by interests. This is an aspect of liberalism that is wide open to postmodern critiques. This is no less true in the realm of international relations. The richness of substantive ethical assumptions underlying Locke, Grotius, Pufendorf, and even Kant--once removed by the scalpel of modernity--are exchanged for the positivism, scientism, and interest-based prescriptions of modern international jurisprudence justifiably attacked by critical legal theory.

In the case of Newton, the rationalistic and mechanistic interpretation of his 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 points out Newton's uncanny ability to ignore the theoretical consequences of the two epistemic extremes of the day: Cartesian rationalism with its dangerous attachment to innate ideas and Baconian empiricism that led to the exaggerated skepticism found in David Hume's epistemology.[5]

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[5] Jaki, 90. This chapter relies heavily on Jaki's interpretation of the epistemic and metaphysical transitions taking place at this time. Jaki is among the foremost scholars in the world in the area of comparative history of scientific epistemology. He is important to this work because he highlights the importance of epistemology to science and, thus, the importance of epistemology to all rational inquiry. Liberal thought is directly tied to the modern emphasis on reason; this includes liberal international thought, as Morgenthau points out. In a number of publications, Jaki has persuasively argued that the absence or presence of a self-sustaining tradition of science depends largely on the degree to which epistemic realism prevails in that society. Cultures which have fostered trust in human's ability to perceive physical interactions in the environment have had greater success in

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. 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. That perspective entailed a resistance to both the absolutism of Greek neo-Platonism or the relativism contained within radical skepticism. 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."[6] Resistance to that belief required an epistemic balancing act between the two extremes already mentioned. As he states:

> To a large extent the resistance had therefore been an exercise in natural theology--in which Protestant divines showed much interest once the first wave of supernatural reaffirmation was over. This is a point which one historian of science implicitly recognized by giving much credit to 'moderate Puritans' for the rise of science in the century of genius. Being moderate, however, meant adopting an epistemological median, the common basis of the road of science and the ways to God.
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> Science owed to [the resistance to neo-Platonism] a renewed awareness of the contingency of the world. From this contingency there followed the logical need of painstaking, experimental investigations. They could not be justified within Cartesian a priorism rooted in a spurious natural theology. Baconian empiricism could be of no use either, because research had to be directed in order to be fruitful. This direction could only come from a conception of the

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developing science. He also argues that some cultures began with those epistemic tendencies, only to lose them and the capacity to sustain scientific inquiry on a self-sustaining basis.

[6] *Ibid.*

> mind's role which transcended empiricism without being trapped in a priorism. This conception had its most cogent and constant expression in the classical proofs of the existence of God. They represented an epistemological middle road which Newton followed by instinct. Part of that instinct was rooted in Newton's remote connection with the sixteenth-century Christian revival.[7]

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

The fact that Newton wrote more works on theology than he did on physics gives some credence to this belief. Judaism had a tremendous effect on Newton's theology and on his epistemology. He was an avid Hebraist who taught himself Hebrew in order to be able to translate the Tanach himself. 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.[8]

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[7] *Ibid.*

[8] Matt Goldish, *Judaism In The Theology Of Sir Isaac Newton* (Boston: Kluwer Academic Publishers, 1998), 4.

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 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.

> Thou shalt love the lord thy God with all thy heart & with all thy soul & with all thy mind. This is the first & great commandment & the next is like unto it, Thou shall love thy neighbour as thyself. Upon these two hang all the law & the Prophets. These are the laws of nature, the true natural religion. These are the part of religion which ever was and ever will be binding to all nations, being of an eternal immutable nature because grounded upon immutable reason.[9]

Newton's impact on the Enlightenment, and its absorption of what was considered to be the Newtonian rational mechanistic paradigm, was enormous. As A.O. Hirschman points out, if liberalism was anything, it was rational. The writings of early international legal theorists mirror Newton's views here 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

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[9] Isaac Newton, *Of the Church*, MS. Bodmer; quoted in Goldish, *Judaism In The Theology Of Sir Isaac Newton*, 41.

epistemic foundations of Newton's work were marginalized in order to make room for Newton the rational mechanist and icon of the Enlightenment. Hugh Kearney writes eloquently on the fictive creation of the "Enlightenment Newton."

> From our point of view the significance of Newton lies in his bringing together the mechanistic and magical [or alchemical] traditions. In one of them, the world was a work of art and God was an artist. In the other, the world was a machine and God was an engineer. The two world pictures were clearly incompatible but Newton himself managed to meet the difficulty by creating a Deity who combined engineering skill with artistic solicitude. Newton's God was an aesthetic mechanic who was forever tinkering with his creation. This compromise barely survived Newton's death. The general trend of scientists in the eighteenth century was to see the world in terms of a machine. Newton the Great Amphibium managed to span two worlds, but his successors could not. Hence the *Principia* came to be regarded as the foundation of a mechanistic view of the universe.[10]

In Newton's historiography, 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.[11]

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[10] Hugh Kearney, *Science and Change: 1500-1700* (New York: McGraw-Hill, 1971), 196.

[11] Isaac Newton, *Irenicum*, MS. Keynes 3; quoted in Goldish, *Judaism In The Theology Of Sir Isaac Newton*, "Appendix A," 167.

The ultimate act of tinkering 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. Given these positions, it is difficult to see how Newton could be considered the founder of a mechanistic paradigm.

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."[12] 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. 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. But this was not the *orthon logon* of Hellenic thought. When the Greeks attempted to construct a theory of the social

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[12] Thomas Spragens, *The Irony of Liberal Reason* (Chicago: University of Chicago Press, 1981), 75-94. See also the discussion of this phenomenon in his book *Reason and Democracy* (Durham NC: Duke University Press, 1990), 43-46.

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. For Locke is considered a founder of both domestic social contract theory and legal institutionalism in international thought.

John Locke and the Rationalization of Covenant

Until recently, there has been a remarkable lack of interest in the circumstances shaping the historical and ethical characteristics of Locke's philosophy. Over time, Locke's moral assumptions were stripped away, leaving only the framework of self-interested behavior found in microeconomic or rational-choice theories. Some, though not all, of the blame for this change lies with the author

himself, as we will see. Locke is an important figure for both domestic and international liberalism because he serves as the transition point between covenantal and contemporary contractual liberalism.

Locke desired to place liberal theory upon a rational foundation in order to justify the accession to the throne of William and Mary. He was not the first, of course, to consider placing rationality upon a foundation of interests that could counteract man's irrational passions, passions that Thomas Hobbes had clearly and brilliantly exposited. Indeed, Blaise Pascal wrote of the "admirable arrangement" man had managed to construct out of the opposition of his countervailing passions.[13] Giambattsita 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.[14] And while some scholars such as Leo Strauss look to Hobbes as the founder of modern political philosophy, it is John Locke to whom liberal theorists turn as the founder and originator of modern liberal theory. This is no less true in international relations.[15]

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[13] Blaise Pascal, *Pensees*, Brunschvicg Edition, introduction and notes by Marc des Granges (Paris: Garnier Freres, 1948), paragraph 402, 171. Pascal's states: "Grandeur de l'homme dans sa concupiscence meme, d'en avoir su tirer un reglement admirable, et d'en avoir fait un tableau de la charite'."

[14] Giambattsita Vico, *The New Science: Third Edition*, trans. Thomas Goddard Bergin and Max Harold Fisch (Ithaca NY: Cornell University Press, 1968), paragraphs 132 and 133, 62.

Hobbes did provide some of the most important theoretical foundations for Locke's work, however, and he is important to the secularization of covenantal thought. 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. He states, for example:

> 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.[16]

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

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[15] Fukuyama, for example, sees Locke as the founder of the Anglo-Saxon variant of liberal IR theory. And, as Michael Doyle explains, the intellectual origins of liberal international thought lie in Lockean theory to a great extent. He mentions Locke as a founder of "liberal institutionalism" and defender of the school of international law consistent with natural law. Zacher and Matthew cite Locke as one of the two founders of international liberal theory, the other being Rousseau.

[16] Thomas Hobbes, *Leviathan*, Norton Critical Edition, eds. Richard E. Flathman and David Johnston (New York: W.W. Norton and Co., 1997), Book II, Chapter 26, section 4, 134.

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.[17] 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 breaks with ancient and medieval beliefs that knowledge of things involved a knowledge of essences, not just surface impressions. As Spragen states, this earlier view, one that Newton inherited, contained the idea that "*forms* are impressed on the mind through sensation. In Aristotle's (and

[17] Hobbes, *Leviathan*, Book II, Chapter 26, section 7, 144.

Plato's) rendition, these forms are the essences of a finite cosmos. . . ."[18] Locke, for one, relied upon Hobbes' epistemic sensationism which only aided in the breakdown of classical liberalism into modern variant. As the breach between sensationism and humane liberal ethics grew wider and wider, the Enlightenment project became more and more untenable.

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."[19] 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. . . .[20]

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[18] Spragens, *The Irony of Liberal Reason*, 209.

[19] John Locke, *The Second Treatise of Government*, ed. Thomas P. Peardon (New York: Macmillan Publishing, 1952), paragraph 19, 13.

[20] *Ibid.*, paragraph 6, 5f.

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 upon men, a point entirely consistent with covenantal theory.[21] In order to secure property and well-being, men must compact together to create institutions that can enforce this law. Otherwise, one may find one's life, liberty or property in jeopardy. Thus the end of civil society 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."[22] It is from these inconveniences or from the inconstancy of human judgment, that civil society and government serve to protect us.

Michael Doyle writes that the origins of Locke's theory lie in "the ideas of Protestant theologians and the

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[21] This was a major point of contention between Locke and Filmer. Filmer used covenant doctrines in Genesis to support the idea of the rights of kings while Locke believed they existed to secure the rights of all.

[22] Locke, *The Second Treatise of Government*, paragraph 90, 50.

traditions of the seventeenth-century English Puritan Revolution."[23] Locke's own father, a Puritan and his son's first teacher, fought on the side of Parliament during the Civil War. 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. The previously quoted passage of "every man being judge in his own case" would have been very familiar to seventeenth-century Englishmen with any kind of theological education, reminding them of the pitiful state of Israel at the end of the Judges period. Indeed, in Judges 21:25, we find similar language to Locke's: "In those days Israel had no king and everyone did as he saw fit." In the *Second Treatise*, Locke quotes from Judges himself. 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 men quit the state of nature for society.[24] 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

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[23] Doyle, *Ways of War and Peace*, 214.

[24] Locke, *Second Treatise of Government*, Chapter 3, paragraph 21, 14.

consent.[25] It was just this kind of regime that Locke attempted to justify

While there are striking similarities between Locke and his Puritan predecessors, there are also differences, the most important of which is Locke's appeal to interests as a means of devising a rational political theory. Hirschman writes: "Although Locke does not appeal to interest to keep inconstancy at bay, there is clearly an affinity between the Commonwealth he is attempting to construct and the seventeenth-century image of a world ruled by interest."[26] While inconstancy (man's tendency to act inconsistently and imprudently in the state of nature) was not to be solved by interests, interests would draw men into civil society which *was* the solution to that vexing problem.

The Critique of Anglo-Saxon Liberalism

Communitarian Mary Ann Glendon finds the roots of the Anglo-Saxon obsession with rights and autonomy in Locke's insistence that all rights are a form of property rights, a peculiarity of the common law which, to a large extent, arose out of the law of trespass.

> [Locke] seems to have expected his readers to accept without question that proprietorship of one's body was a God-given right, as natural as breathing. . . . After his "demonstration" that individual property rights were anterior to government, Locke went on to his next proposition, namely, that the essential reason human beings submit to government is to safeguard their "property." In a

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[25] On this point see Elazar, *Covenant and Polity in Biblical Israel*.

[26] Hirschman, 53.

> move that was to have great significance for Americans, he announced that he would use the word "property" to designate, collectively, "Lives, Liberties, and Estates." According to Locke, the preservation of property, in this capacious sense, is "the great and chief end" for which men come together into commonwealths.[27]

Glendon argues that, by placing the foundation for rational political action in interest and specifically in terms of property rights, Locke began a process of rights-expansion that has lasted up until the present day. Rather than emphasizing duties and obligations, the Anglo-American tradition of liberalism has focused on rights claims almost exclusively.

Francis Fukuyama, in his defense of liberalism, also finds a Lockean beginning to what he terms "Anglo-Saxon liberalism." He distinguishes this regime from a more civic-minded Hegelian polity. But, to the extent that modern liberal international relations theory is Anglo-American, or to the extent that liberalism in international relations is an extension of domestic liberal theory, this Lockean appellation is appropriate. As he states,"[T]he oldest and most durable of liberal societies--those in the Anglo-Saxon tradition--like England, the United States and Canada--have typically understood themselves in Lockean terms."[28] While it is true that Hobbes is the first theorist to argue for an interest-based rationality as the basis for government, the government he is attempting to justify is an absolute

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[27] Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse* (New York: The Free Press, 1991), 21. Emphasis in the original.

[28] Fukuyama, *The End of History*, 145.

monarchy. According to Fukuyama, Locke is the progenitor of the truly liberal "first man." This political being cleverly combines the desire for material well-being with his calculative ability to reason, leading eventually to the "last man" or bourgeois predicted by Nietzsche. This last man cares only for his material interests; he has no interest in anything beyond the fulfillment of his desires for material gain. In *Trust: the Social Virtues and the Creation of Prosperity*, Fukuyama outlines the relationship between the rights-oriented rationality of this first man, rooted as it is in the preservation of property, and the rationality of *homo economicus* of economic theory.

> Man in the state of nature for early Anglo-Saxon liberal political theorists was the exact counterpart of the economic man of classical economic liberalism. Both were portrayed as isolated individuals, seeking to protect their own basic rights (in the case of political liberalism) or their private "utility" (in the case of economic liberalism). In both cases, social relationships emerged only through contractual relationships in which the rational pursuit of either rights or interests led to cooperation with other human beings.[29]

There are clearly ambiguities in Locke's theory that lend credence to Fukuyama's critique. No doubt, this is one of the reasons for the existence of so many interpretations of Locke: the "Lockian" [sic] consensus of Louis Hartz; the capitalist interpretation of C.B. MacPherson; and the neo-Puritan interpretation of John Dunn and John Dienstag. After rejecting these interpretations, Thomas Pangle takes even another approach, citing Locke as a neo-Machiavellian who

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[29] Francis Fukuyama, *Trust: the Social Virtues and the Creation of Prosperity*, Free Press Paperback edition (New York: Free Press, 1996), 286. Emphasis added.

altered Christian theology in order to make it compatible with acquisitive and calculative liberalism. As sympathetic as he is to Locke's agenda, even he is troubled by the inability of Lockean theory to explain civic solidarity and morality.

> Locke's apparent failure to explain his own civic spirit is only the most egregious instance of a more general unanswered question that pervades his writings. For Locke seems to continue--surreptitiously or unjustifiably, it would seem, given his principles--to count on citizens and parents running risks and making sacrifices for country and family. He seems to presume in others--and exhibit in himself--a concern for the social contract that goes beyond what can be explained in terms of comfortable self-preservation, or self-interest however understood. In short, we may doubt whether the new Lockean moral reasoning provides an adequate rational justification for the moral action that is required and expected in even a permissive Lockean civil society.[30]

Pangle misses an important point, however, as does Glendon in her critique of Locke's emphasis on property. Locke's liberty is federal liberty, the freedom to do good. This freedom entails the pursuit of happiness but not the pursuit of goods for their own sake, which would involve natural liberty. This point is of great importance because it reveals a great deal about the development of self-interest rightly understood which Tocqueville later finds in New England.

The Lockean Integration of Interests and Ethics in Sanctified Labor

Pangle begins his chapter on Locke's theory of property with the subheading "The Assault on the Biblical Conception."

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[30] Thomas Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke* (Chicago: University of Chicago Press, 1988), 270f.

Locke's view on property, however, is not as revolutionary as Pangle claims. Pangle also contends that Locke's beliefs about the good life are Machiavellian rather than Puritan, a fact most obvious in his view on property. Locke's theory of property, however, derives from his theory of labor, one that is similar to that of Aquinas and Marx. Property is labor mixed with matter. But thought is also a form of labor for Locke. He states, "General and abstract ideas . . . are the Workmanship of the Mind."[31] And, as Joshua Dienstag, points out, in the *Two Treatises,* he uses the term "workmanship" to describe man as God's creation.[32] 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 theology, is an act of dominion commanded by God in the book of Genesis. Far from being a burden, 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. Locke goes straight to the Hebrew text to argue against Filmer's point that God gave

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[31] John Locke, *Essay Concerning Human Understanding,* Book IV, Chapter 12, paragraph 3, ed. A.S. Pringle-Pattison (Oxford: Clarendon Press, 1934), 329f.

[32] Joshua Foa Dienstag, "Serving God and Mammon: The Lockean Sympathy in Early American Political Thought," *American Political Science Review* 90(September 1990), 501.

dominion only to rulers. In this way, Locke draws together an argument about property with his larger point about 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 states:

> 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.[33]

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."[34] In the *First Treatise of Government,* he states:

> 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.[35]

Locke tells us that the same law of nature that gives us property also sets limits upon it. He places acquisition

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[33] Locke, *Second Treatise of Government,* Chapter 5, paragraph 32, 20.

[34] *Ibid.,* paragraph 34, 20.

[35] Locke, *Two Treatises of Government,* ed. Peter Laslett (New York: New American Library, 1965), 86f.

within the framework of Pauline theology by citing I Timothy 6:17. From that passage, he draws the phrase "God gives us all things richly."[36] But the entire verse is an admonition to the rich, who may fall into the temptation of greed, not to put their hope in riches.[37] In contrast to Pangle's characterization of acquisition as being "unlimited" in Locke's theory, Locke makes it clear that one may only hold what one can use, a stipulation that applies both to food and to land.

This is precisely how ethics and interests were synthesized by covenantal thinkers in the pre-liberal period, by seeing interest-seeking as a means of fulfilling a holy enterprise. Just as politics was sanctified in covenant theology, so was 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, nowhere in the Bible does God exhort humans to do good for its own sake; the covenant promises blessing for obedience, not existential fulfillment apart

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[36] Locke, *The Second Treatise of Government*, Chapter 5, paragraph 31, p. 19.

[37] *Pros Timotheon A* (Textus Receptus) 6:17-19 states "Tois plousiois en to nun aioni paraggelle, me upselophronein, mede elpikenai epi plouto adeloteti, all en to theo to zonti, to parechonti emin plousios panta eis apolausin; agathoergein ploutein en ergois kalois, eumetadotous einai koinonikous, apothesaurizontas eautois themelion kalon eis to mellon, ina epilabontai tes aioniou Zoes." "To the rich in the present age charge, not to be high-minded, nor to have hope in of riches the uncertainty; but in God the living, who gives us richly all things for enjoyment; to do good, to be rich in works good, liberal in distributing to be, ready to communicate, treasuring up for themselves a foundation good for the future, that they may lay hold to eternal life."

from circumstances.

In examining Locke's biblical hermeneutic, Pangle does make a case for some ambiguity in Locke's theory concerning self-preservation and interests. One can argue, as Pangle does, that Locke did not believe in the biblical revelation underlying his theory. That may well be true. But Pangle's argument that Locke's theory on property represents a radical discontinuity from earlier tradition is overstated.

Even if we were to accede to Pangle's point, however, that Locke is more influenced by Machiavelli than by biblical sources, the question remains as to how political ethics were perceived by early Americans. Pangle, following Strauss, argues that Locke's real message of impious individualism was targeted only to a few careful readers who could make the Machiavellian connection. Few Americans were intimately familiar with Machiavelli; nearly all had read Genesis and Deuteronomy in which was contained the essentials of the dominion concept.[38] It is likely that, as Tocqueville argued, ordinary Americans, when considering their own personal ethics, viewed interests in conjuction with religion or natural law rather than with the ideal of unlimited acquisition.

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[38] Once again, Lutz's study is instructive. Of all citations in the founding period literature (1760-1805), Deuteronomy is cited most because of its prevalence in pro-revolutionary religious pamphlets. The Bible as a whole makes up 34% of the 3,154 citations in the literature. Citations of Machiavelli make up .5% of the total. This information by itself, of course, tells us nothing about the relative influence of the Bible and Machiavelli on Locke. But it does say a great deal about their relative roles in American society. Lutz, "The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought," 192. Cf. 194.

This balance of interests and humane ethics does not come about by chance. Nor is its continuance guaranteed. While a critique of this shift towards interest-based behavior is the subject of the next chapter, what should be noted at this point is that the subtle shifts in the definition of interests would become the basis for further movement towards a utilitarian, interest-oriented, liberal theory. 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 realism in foreign-policy decision-making.[39] Michael Doyle, states:

> The international condition is not . . . inherently warlike, a tract of time when the will to do battle must be assumed. . . . Instead, for Locke, it is a troubled peace where war is a clear act of aggression violating rights to life, liberty or property or a stated declaration of intent to do so. All else is peace. And in peace, natural law--now international law--should rule.[40]

One might argue then that the only thing separating realist prudence from Lockean prudence is this presence of natural law in Locke's theory, an important distinction but one that

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[39] Locke, *The Second Treatise of Government*, paragraph 147, 83.

[40] Doyle, *Ways of War and Peace*, 219.

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 the Good 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 seen in the works of Hugo Grotius and Samuel Pufendorf. Both of these writers greatly influenced the development of liberal international thought. While Doyle refers to Locke as the inventor of "legal institutionalism," Grotius is often called "the father of international law," and was an important source of ideas for the American founders.[41] Pufendorf also had an enormous influence on international legal theory, the American founders, and on Locke himself.[42]

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[41] Lutz, " The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought," 194.

[42] On the influence of Pufendorf on the Founders, see Lutz, "The Relative Influence of European Writers," 193. Hirschman cites Pufendorf's influence on Locke especially with regards to the doctrine

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. Kant and legal positivists, for example, attempted to rid international jurisprudence of natural law which they saw as inappropriately teleological.

In the first chapter of *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 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."[43] While there are other forms of law--divine law, 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 *in se*. This universal quality of law made the very idea of international law possible for Grotius. Note the

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of inconstancy. See Hirschman, 53.

[43] Hugo Grotius, *On the Law of War and Peace*, trans. Francis Kelsey (Indianapolis: Bobbs-Merrill Press, 1962), 38.

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.[44]

There is among nations a common law to which all are subject, but one gathers from this passage that Christian nations are more subject 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 theory, insofar as reason propels men to covenant together for their common good. On that same basis, states covenant together overtly, or by implication, through agreement or commerce.[45] 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. In other words, 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

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[44] *Ibid.*, 48-50.

[45] *Ibid.*, 14f.

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.[46]

Grotius is attached to the covenantal paradigm in 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 does not allow moral laxity in 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."[47]

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[46] *Ibid.*, 193.

[47] Steven Forde, "Hugo Grotius on Ethics and War," *American Political Science Review* 92(September 1988), 643.

For purposes of this paper, the important point about Grotius' work is not the preeminent place he gives to a deity. Rather it is 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 the definition of rationality proposed by social capital theory or a Jewish conception 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 Abbe' de St. Pierre).[48] 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. Reason had not yet been emptied of its compellingly ethical qualities, nor was it yet conflated with the pursuit of material gain or pleasure.

Pufendorf (1632-1694) had a great deal of influence on John 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 man's

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[48] Hans J. Morgenthau, *Scientific Man,* 41.

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.[49]

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 law.

> Though these precepts have a clear utility, they get the force of law only upon the presuppositions that God exists and rules all things by His providence, and that He has enjoined the human race to observe as laws those dictates of reason which He has Himself promulgated by the force of the innate light. 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.[50]

Because of the undeniable presence of reason as given by God, and the knowledge of good and evil in the hearts of men, 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,

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[49] Samuel Pufendorf, *On the Duty of Man and Citizen According to Natural Law*, ed. James Tully, trans. Michael Silverthorne (Cambridge: Cambridge University Press, 1991), 35.

[50] *Ibid.*, 36.

war may be rightly engaged in. But when the purpose of war is to satisfy avarice or ambition, it is not justified.[51]

The Impact of the Appeal to Interests

The appeal to interests radically affected the religious argument for liberalism. As Weber asserted, Calvinism had never been devoid of interest-seeking. But the way interests were defined by early proto-liberals 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, as revealed by the sumptuary laws of Geneva. But, by Weberian standards, these were vestiges of value-rationality that were to be transformed into instrumental rationality by deemphasizing the spiritual, the humane, and the sacred.

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.[52] One can see the effects of a Lockean theory of interests, for example, on John Witherspoon, the Presbyterian divine, who signed the

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[51] *Ibid.*, 168.

[52] Lutz, "The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought," 196. Locke is cited frequently in revolutionary literature during the 1760's and 1770's. After that, his influence drops off dramatically.

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 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.[53] His beliefs about the structure of regimes is very similar to the views of Calvin. 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."[54] Thus Witherspoon, Calvinist and Lockean, passed along 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

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[53] Barry Alan Shain, *The Myth of American Individualism: The Protestant Origins of American Political Thought* (Princeton: Princeton University Press, 1994), 25.

[54] John Witherspoon, "Lectures on Moral Philosophy," in *The Selected Writings of John Witherspoon*, ed. Thomas Miller (Carbondale, Ill.: Southern Illinois University Press, 1990), 203. Emphasis added.

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.[55]

As Shain points out, 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 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 men pursuing their own interests. It came through covenanting together to secure the rights and liberties of all participants in the covenantal polity.

Nearly sixty years after the Revolution, Tocqueville found Americans living out this same philosophical synthesis. They accepted the role of interests but placed them within the context of the general good consistent with transcendent religious sentiments.

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[55] John Trenchard and Thomas Gordon, *Cato's Letters*. no. 35, in *The English Libertarian Heritage*, ed. David L. Jacobson (Indianapolis: Bobbs-Merrill, 196),89; quoted in Shain, 43. Lutz's study on source citations shows that Trenchard and Gordon are the seventh most cited European thinkers in the American founding literature. Lutz, "The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought," 194.

> [Americans] . . . do not raise objections to men pursuing their interests, but they do all they can to prove that it is in each man's interest to be good. . . .
>
> It gives them pleasure to point out how an enlightened self-love continually leads them to help one another and disposes them freely to give part of their time and wealth for the good of the state.[56]

But what of the future of interest-seeking? Tocqueville realizes that there are two possible outcomes when he states:

> One must therefore expect that private interest will more than ever become the chief if not the only driving force behind all behavior. But we have yet to see how each man will interpret his private interest.[57]

These interpretations can remain broad or they can narrow. Should the latter occur, devastating consequences will result. Once the circumscriptions of natural law were removed from liberal theory, the path was cleared to conflate interests, narrowly understood, with happiness. This was the approach taken by Jeremy Bentham and John Stuart Mill and the consequentialist school. Or, in order to preserve the purity of ethical prescriptions, one could make them utterly transcendent to interests. This was the path taken by Kant. Yet Kant also made a place for interests in his philosophy. They were the engine of history that made perpetual peace inevitable.

Kant and the Interest-Ethics Split: The Critical Division

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

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[56] Tocqueville, 527.

[57] *Ibid.*, 527.

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. The French Enlightenment, as opposed to its English counterpart, saw the rejection of this belief and more concessions made to the power of states to act as they would in conformity with the need for survival. In his work on Emmerich de Vattel, Frank Ruddy portrays the intellectual climate of the later Enlightenment[58] regarding international law. Citing Voltaire, Rousseau, Diderot, and other philosophes of the period, he writes:

> In such a maelstrom, to use Frederick the Great's term, there was no international law generally recognized. What there were of principles grew mainly in the light of rules adopted by the major powers in their negotiated treaties of peace or through prize courts or other institutions set up to determine international legal relationships. There was no one system of law universally recognized, but there were laws which each system was ready to uphold. . . . [N]othing was sacred, no principle inviolable. . . . Not even the most explicit treaty arrangements need be honored.[59]

The balance of power principle ostensibly replaced "law" as

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[58] Following Lundberg and May, one could call this period the second and third Enlightenments which would include the works of Voltaire, Helvetius, Diderot, Rousseau, Mably, and Raynal. D. Lundberg and H.F. May, "The Enlightened Reader in America," *American Quarterly* 28(Special Issue), 262-293; cited in Lutz "The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought," 192.

[59] Frank S. Ruddy, *International Law in the Enlightenment: The Background of Emmerich de Vattel's* Le Droit des gens (Dobbs Ferry NY: Oceana Publications, 1975), 42f.

the guide to international behavior, a major shift in intellectual justifications for state actions. There was one more grand attempt, however, to place international behavior on a universalistic foundation, that of 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 naiveté. Kant refers to them as "irritating comforters."[60] 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 in harmony with one another, principles that could be conceived of as natural law.[61] 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.[62]

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[60] Immanuel Kant, "Perpetual Peace," In *Kant On History,* ed. and trans. Lewis White Beck (New York: MacMillan, 1985), 99.

[61] *Ibid.,* 98.

[62] *Ibid.,* 114.

There are two elements of Kant's theory that must be examined, i.e., 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 this area is quite remarkable. Commerce and republican states do seem to add to the peace, though the reasons may not be as clear as Kant would have us believe. Human foibles must be considered, and it will take time for them to be curbed, particularly as they are manifest in government. 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 government curbs the appetite of states for war, at least 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 one-world state insofar as the latter may become a despotism.[63]

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 the rationality of his theory. Kant, ever the devotee' of Newton, wants to

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[63] *Ibid.*, 113.

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. . . . The use of the word "nature" is more fitting to the limits of human reason and more modest than an expression indicating a providence unknown to us. This is especially true when we are dealing with questions of theory and not religion, as at present, for human reason in questions of the relation of effects to their causes must remain within the limits of possible experience.[64]

This last phrase is quite salient 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 our 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

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[64] *Ibid.*, 107f.

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 man arising rationally from nature, that did not involve theism as seen in Christianity. But Kant's nature is not even the nature of the Greeks, for the *Ding an sich*, the thing in itself of the noumenal world, will never be known. Kant's ethics follows 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. There is no transcendence in Kant except Kant himself. As Jaki puts it:

> The Kantian knowledge of things was a construction by the mind of the semblance of things and not a natural grasp of intelligibility embodied in them. As a result, whatever Kant's longing for an intellectual touch with things other than his own mind, the Kantian impossibility of being in touch with the Ding an sich meant being trapped within one's own mind.[65]

Why is it that we must treat every man as an end? Why must we desire to act only as if our actions were the basis of universal law? There can be no appeal to God, for his presence, as part of the *noumena*, is made marginal and unknowable from a rational perspective. The appeal must be on the basis of reason, but as Jaki states, Kant's reason is really Kant's *reasons* rather than being universal principles of absolutely undeniable rationality. This fact is necessitated by the synthetic a priori approach within the

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[65] Jaki, 119.

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. Matter follow the dictates of Newton's law regardless of circumstance. 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. Once we leave the world of Kant, we leave the world of a priori principles and are left without a meaningful framework of transcendence.

In *After Virtue*, Alasdair MacIntyre explains why Kant's ethical theory is problematic.

> [Kant] does indeed look for a foundation of morality in the universalizable prescriptions of that reason which manifests itself both in arithmetic and morality; and in spite of his strictures against founding morality on human nature, his analysis of the nature of human reason is the basis for his own rational account of morality. Yet, in 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. Yet if my thesis is correct, Kant was right; morality did in the eighteenth century, as a matter of historical fact, presuppose something very like the teleological scheme of God, freedom and happiness as the final crown of virtue which Kant propounds. Detach morality from that framework and you will no longer have morality; or, at the very least, you will

have radically transformed its character.[66]

Kant must slip into his argument some sort of teleology which violates the deontic quality of the imperatives. But he cannot systematically incorporate a teleology because this would violate, in turn, his desire to be the Newton of philosophy. 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. In the end, he came to believe that imagination was the link to the unity of mind and phenomena.

From imagination to the autonomy of the will took only one step, a step taken by Johann Fichte.[67] At that point, it was possible to dispose of Kant altogether. Friedrich Nietzsche retained Kant's disembodied will but rid himself of the rest of Kantian ethics that, 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. The failure of Kant's ethical stance is rooted in the failure of his epistemology. As the next two chapters show, liberal, postmodern, and realist theories were all greatly affected by the division between Kant's ethics and his epistemology. His own philosophical failures had devastating consequences on future attempts to

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[66] Alasdair MacIntyre, *After Virtue*, Second edition (Notre Dame, IN: University of Notre Dame Press, 1984), 56.

[67] Jaki, 20.

develop a humane *and* rational ethic.

Positivism: Interests as Utility

Hans Morgenthau documents the transition from hopes for a science of ethics in the early Enlightenment to the autonomy of the modern liberal agent. Morgenthau asserts that traditional ethics was grounded in the familiar distinction between 'is' and 'ought-to-be,' a distinction lost to modernity.

> It was only one step from [the]rationalization of ethics to the disappearance of ethics as an autonomous system of norms, distinct from empirical fact. . . . The nineteenth century abandons this dichotomy in a development which starts with Kant's formalization of the ethical imperative and ends with Comte's identification of ethical rule and scientific law. The deductive reason of the seventeenth and eighteenth centuries had fallen victim to Hume's and Kant's criticism, and the normative character of the ethical command follows the deductive method into oblivion.[68]

Morgenthau's point is made clear when one looks to the effect of the decline of natural law theory. By the end of the eighteenth century, Jeremy Bentham was already referring to Locke's emphasis on natural rights as "nonsense on stilts."[69] 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 rational interests as a means of countering irrational passions, passions best seen at the international level in the form of atavistic

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[68] Morgenthau, *Scientific Man,* 15f.

[69] Quoted in Doyle, *Ways of War and Peace,* 226.

state behavior. As Michael Doyle points out, Bentham was heavily influenced by the "commercial pacifists" of the eighteenth and nineteenth centuries. Adam Smith, for example, believed that when nations and individuals pursued their interests, a common good would arise.[70] The appeal to interests as a means to international peace was, to liberal thinkers like Bentham, necessary and obvious. In *Plan for a Universal and Perpetual Peace* (1789), modern liberal solutions to international problems began to appear. Bentham argued for collective security arrangements, an international court, and a "Pacific or Philharmonic Society" made up of intellectuals who would educate the public about what sort of policies would be in their best interests.

Robert Dahl more recently proposed something similar in his article "On Removing Certain Impediments to Democracy in the United States."[71] Anxious about whether the public, newly liberated from the judicial tyranny of "Madisonian democracy," would be able to act in their own interests, Dahl proposed to have "quasi-experts" educate them as to what their interests were. Only by having such guides available would the public be able to make wise choices and have an "enlightened understanding."[72] What this means is uncertain,

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[70] *Ibid.*, 228.

[71] Robert Dahl, "On Removing Certain Impediments to Democracy in the United States." Chapter in *The Moral Foundations of the American Republic*, Robert H. Horwitz ed., Third edition (Charlottesville VA: University of Virginia Press, 1986), 230-252.

[72] *Ibid.*, 250.

however. How we get from procedure to substance in Bentham, or Dahl, for that matter, is not made clear.

Max Weber understood the problem of reconciling means and ends in politics. He believed that it was the duty of social scientists to serve as experts for decision-makers on the relationships between means and ends. He concluded that, given the contemporary state of modern epistemology and its implications for ethics, ends could not be rationally chosen. To some degree, it is this pessimism that separates him from liberals *per se*. This is certainly the case with regard to international relations, a realm he characterized as a war of the gods. For this reason, his international theory will be dealt with more fully in the discussion on realism below.

Weber believed the Enlightenment hope of placing values on a rational basis is no longer tenable. The modern world is disenchanted and meaning, including ethical meaning, is created, not discovered like some buried treasure. There is no way to turn back the process of disenchantment nor can science teach us to be happy. Like Nietzsche, and like many Germans of his day, Weber believes that happiness is the creation of the bourgeois "last men."[73]

> 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

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[73] Max Weber, "Science as a Vocation," in *From Max Weber: Essays in Sociology*, trans. and eds. H.H. Gerth and C. Wright Mills (New York: Galaxy Books, 1958), 142.

offices.[74]

This critique is important for two reasons. First, Weber's assertions are powerfully echoed by the realists who are skeptical of liberalism's ostensible rationality. This is especially true of Hans Morgenthau in his critique of liberal scientism.[75] He quotes John Stuart Mill's statement on the link between educability and interests that is so crucial to liberal thought. The key, according to Mill, was "to alter people's opinions; to make them believe according to evidence, and know what was their real interest, which when they once knew, they would, we thought, by the instrument of opinion, enforce a regard to it upon one another."[76] But Morgenthau believed that the "debunking" that occurred as liberal rationality was hollowed out, both in theory and in practice, led to political paralysis and a general disbelief in political philosophy of any kind, a theme to be taken up in the discussion of postmodernism.[77]

Second, there is continuity between Bentham and a contemporary liberal like Dahl. That continuity lies in their reliance on the educability of the masses to act in their own interests, though both theorists believe the masses need help in determining what those interests are. These actions by the

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[74] *Ibid.*, 143.

[75] Morgenthau, *Scientific Man*, 11-40.

[76] John Stuart Mill, *Autobiography;* quoted in *Scientific Man Vs. Power Politics*, Midway Reprint Edition (Chicago: University of Chicago, 1974), 17.

[77] Morgenthau, *Scientific Man*, 73.

masses will lead to a positive, common good. Lying in the middle of the timeline between these two theorists is Weber, who reveals the futility of claiming that such a project is "rational" in any normative sense. And 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. Turning liberal optimism on its head, Weber wrote:

> Not summer's bloom lies ahead of us, but rather a polar night of icy darkness and hardness, no matter which group may triumph externally now. Where there is nothing, not only the Kaiser but also the proletarian has lost his rights. When this night shall have slowly receded, who of those for whom spring apparently has bloomed so luxuriously will be alive? And what will have become of all of you by then? Will you be bitter or banausic? Will you simply and dully accept world and occupation? Or will the third and by no means the least frequent possibility be your lot: mystic flight from reality for those who are gifted for it, or--as is both frequent and unpleasant--for those who belabor themselves to follow this fashion? In every one of such cases, I shall draw the conclusion that they have not measured up to their own doings.[78]

This confluence between ethical skepticism and the appeal to utilitarian interests in the period between Bentham and Weber worked well for the European powers. 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, detached from its earlier moral context, served this purpose beautifully. This is not to say, of course, that colonialism did not exist before this period, only that the language used to justify it was altered to appear more rational. The language of interests played a

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[78] Max Weber, "Science as a Vocation," 139f.

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 covenantal limits on power and covenantal requirements of ontological equality. 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.

Positivism and Ethical Irrationality in Liberal Language

By the early nineteenth century, the sprit of positivism began to take hold of the European intellectual world in a number of spheres. Only that which could be factually ascertained was of importance in the sciences, both natural and social. In international affairs, this translated into an interest in the expressions of authority or agreements made by states. In international jurisprudence, this trend was particularly powerful as legal scholars repudiated natural law theory after Kant's maledictions.

Liberalism was not immune to the effects of this new emphasis on the factual. On the contrary, liberal theory remained consistent with its earlier focus on interests while embracing the new scientism of the nineteenth century. This

was accomplished through the works of Adam Smith and David Ricardo and the accent on liberal international political economy. Smith's role as a founding member of this school of thought is well known; Ricardo's role is more obscure though just as important. Ricardo was one of the first theorists to bring methodological individualism into political economy (an accomplishment for which Mill is often heralded), emphasizing the individual as a rational economic actor. Ricardo is also important because his theory of comparative advantage showed that states could still profit from trade even if they did not have an absolute advantage in a specific area of production.[79] Applying an aggregate analysis of rational actors, he showed how states could act in their own interests yet contribute to global stability and peace.[80] In the economic sphere, there is a direct line between this argument and John Maynard Keynes' desire to create the International Monetary Fund and the World Bank after the Second World War. These new institutions, Keynes believed, would facilitate interdependence and lessen the likelihood of repeating the

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[79] Ricardo's theory can be illustrated by the following (oversimplified) contemporary example. Suppose Dr. Smith, a highly capable neurosurgeon, earns $1000 an hour. Suppose Mr. Jones, who mows lawns, earns $50 an hour. While Dr. Smith is perfectly capable of mowing her own lawn for free (an absolute cost advantage), she is better off contracting with Mr. Jones to do it. The hour she would have spent mowing her lawn can be spent in surgery, a trade-off which makes her $950 richer and Mr. Jones $50 richer. Comparative advantage theory is just one more example of how doing good can also be in one's interests. National economies, Ricardo argued, could profit from such trade-offs as well.

[80] David Ricardo, "On Foreign Trade," in *The Theoretical Evolution of International Political Economy*, eds. George T. Crane and Abla Amawi (Oxford: Oxford University Press, 1991), 72-82.

terrible conflict of the First World War.[81]

By the late nineteenth and early twentieth centuries, these economic arguments led to systematic *political* arguments by theorists such as J.A. Hobson and Joseph Schumpeter. Hobson stated that imperialism was the result of the insufficient penetration of liberal democratic principles into a polity. This allowed for the manipulation of monopoly capital by the financial class (meaning, he lets it be known, Jews, in the British case) who must export capital to increase returns.[82] Capital exports require the existence of colonies that can serve as markets for the metropole or host nation. This theory influenced Lenin's own theory of imperialism, as well as that of Joseph Schumpeter.

Schumpeter also believed imperialism to be the result of atavistic and monopolistic elements retaining control of the polity. And, like Hobson, he believed that as society became more democratic, imperialism withered. Contrary to Lenin's claims that capitalism gives rise to war, Schumpeter stated: "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."[83]

Both Hobson and Schumpeter argue that the pursuit of

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[81] Paul Johnson, *Modern Times: The World from the Twenties to the Nineties*, Revised Edition (New York: Harper Collins, 1992), 659.

[82] J.A. Hobson, *Imperialism: A Study* (New York, 1902), 64.

[83] Joseph Schumpeter, *Imperialism and the Social Classes: Two Essays*, Heinz Norden trans. (New York, 1955), 97.

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. History appears to vindicate these theorists. 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.

The theories of Hobson and Schumpeter assume an inevitable relationship between the pursuit of economic interests and peace. However, this assumption ignores the ethical basis that undergirded the original understanding of interests found in classical liberal theory. Among the political economists and commercial pacifists, only Smith's theory retains a place for the circumscriptions of natural law. Ethical theory of any kind is always about the possibility of choice. An autonomic or deterministic ethical theory is a contradiction in terms. By eliminating that element, and regarding economic interests independently of ethics in general and public goods in particular, commercial pacifists added to the process of fundamentally altering the nature of liberal thought.

At the level of domestic theory, however, the

substantive elements of liberal ethics were becoming more and more difficult to identify. As Mill discovered, utilitarian theory was insufficient in its definition of happiness as the end of human existence. Mill altered Bentham's theory in two important ways. First, he introduced the principle of non-restriction which entailed a definition of freedom much like the "natural liberty" maligned by the Puritans. As long as no harm was done to others, acts should not be restricted. Second, he asserted that there could be no unitary ends defined publicly in a liberal polity, emptying utilitarianism of rational content. There is no necessary *substantive* element to be found in the pursuit of Mill's happiness or in the pursuit of interests.

By the end of the century, interests were being used both to justify imperialism and as a remedy to imperialism, depending upon who was allowed to define what these interests entailed. With the advent of logical positivism and "therapeutic philosophy," ethics in the early twentieth century fared no better than international relations theory. Positivists argued that words like "good," "right," or "immoral" had no positive content and, thus, were emotive. Yet liberal theorists and activists continued to advocate social reform and an agenda of progress even though words like "reform" and "progress" could not possibly be given rational content. These expressions had to reach beyond principles of liberalism for substantive meaning, even while so doing was an inherent act of repudiation of liberalism, a

recourse to the non-rational of Weber's *Wertrationalität*. When, at the turn of the century, the Supreme Court of the United States was busy striking down state laws limiting the right to contract, the Court's jurisprudence was in accord with the marketplace metaphor of contract. Upon what basis could such acts be morally repudiated? Upon what basis could it be argued that child labor and compulsory sixteen hour workdays were immoral when contractors were engaged in pursuing their interests? And again, when such acts were legally repudiated, how was their prohibition anything more than an arbitrary act, an appeal to some non-rational ethical ideal. This appeal to something "beyond" is the heart of the critique of liberal jurisprudence by critical legal theorists, a topic to be taken up more thoroughly in the next chapter.

Here the division between realism and liberalism breaks down. It is difficult to imagine how liberals could rationally hold that there are no definable public goods beyond interests and, then, argue with choices made by their own policy-makers. How could they push for a change in the international moral climate or decry the amorality of positivism in international law, as many of them did? Nevertheless, this is precisely what happened when, as Morgenthau notes, the rise of social reform in domestic liberalism found its way into international affairs at the turn of the century.[84] Just as ethics and epistemology were

[84] Morgenthau, *Scientific Man*, 25.

torn asunder in domestic liberalism, the divorce eventually worked its way into international politics as well.

The illusory quality of the epistemic division between realism and liberalism at the international level can be seen as far back as the tendency to distinguish between Hobbes, the realist, and Locke, the liberal. What unites them both is their appeal to interests that rationally justify men leaving the state of nature to form civil society. What also unites them is the belief that they can give objective content to such interests. In modern rational choice parlance, preference formation has a unitary justification and substance for both theorists; such formation is endogenous. Both were ethical objectivists. But as epistemological uncertainty increased, and the normative assumptions of seventeenth century thinkers dwindled away, preferences became arbitrary and not rationally justifiable. They became exogenous to the means-ends language of interest pursuits, the only pursuits that retained their rational character in post-Weberian terms.[85] As one current work on rational choice explains: "[T]he individuals in our analysis are rational. This means that they act in accord with their [exogenously defined] preferences for final outcomes and their beliefs about effectiveness of various actions available to them."[86] There are no criteria by which one can judge the ethical

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[85] Thus the division in Weber's work between value and instrumental rationality.

[86] Kenneth A. Shepsle and Mark S. Bonchek, *Analyzing Politics: Rationality, Behaviors, and Institutions* (New York: W.W. Norton & Co., 1997), 35.

quality of those preferences. That is beyond the scope of rational inquiry.

This same dilemma holds true in the sphere of international law. The division between positivism and natural law during this period is a chimera. For natural law requires a theory of natural right which itself requires a theory of nature. As was pointed out earlier, Bentham refers to Locke's attachment to natural right as "nonsense on stilts," a peculiar interference of metaphysics into what ought to be a rationalist ethic. In the nineteenth century, calls for a return to natural law theory were circumscribed by the awareness that, epistemologically, such law had to rely upon state *behavior* for its vindication, not some larger transcendent ethical theory. Critical legal theorist Martii Koskeniemmi makes the point that the dichotomy of naturalism/positivism obscured larger assumptions about ethics in international law, namely that the state was the only legitimate actor and that any natural argument had to rely upon those states' consent. Natural law was transformed into the recognition of right by states, a transformation that renders any connection with earlier natural law theory dilatory.

> [M]ost professionals expressly preserved some idea of natural law in their system which, though usually termed "secondary" in respect of positive law, fulfilled the important function of offering arguments when positive ones were not available. Secondly, positivism and naturalism are not really so separate as it is made to seem. In the professionals' argument initially "positivistic" points about consent turn regularly (though silently) into naturalist ones under the argument from tacit consent . . . or generalization from treaty. Furthermore, the primacy of the State, its "absolute" rights and its will to the law is

> based on the liberal-naturalist assumption about the primacy of the individual to the society.[87]

Koskenniemi is in no way arguing for a covenantal perspective, but his argument supports the covenantal critique of hierarchical liberalism. Liberals and realists both looked to the state as the primary source of authority, domestically and internationally. The influence of Weber on international realism and domestic liberalism reveals this important point. The further liberalism evolved away from its classical and covenantal origins, the less we are able to distinguish it from state-centered realism. They look and act very much the same. Liberals used domestic analogies about rights while forgetting the reality behind those analogies. The first premise of covenantal politics is that power must be divided and limited; that includes state power. Nor is the state the ultimate arbiter of natural right. The idea of the state as holding the monopoly of legitimate violence is anathema to classical liberals. These premises concerning limited state power were handed down to classical liberal theorists but were promptly forgotten by modern liberals, in no small part, because of their view that transcendent natural right was an irrational prejudice.

By the beginning of the twentieth century, liberal international relations theory was caught in the trap of having to rely upon the opposition of apology(positivism as relativism) and utopia(natural law as absolutism) in order to

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[87] Martii Koskenniemi, *From Apology To Utopia: The Structure of International Legal Argument* (Helsinki: Finnish Lawyer's Publishing Company, 1989), 107.

make sense of itself.[88] One or the other sides of this opposition must be emphasized, depending upon the circumstance, while the other must be pushed to the margins of consciousness. Two primary problems must be confronted. The first, so acutely analyzed by the realist tradition, is the belief in a harmony of interests. The second involves a larger and more fundamental contradiction between liberal ethical prescriptions and the epistemology necessary to ground them theoretically. *Both of these problems arose at the international level as a result of the epistemic faith in scientism leading to the formulation of ethics* as *interests, a process that was accompanied by an unawareness of how unstable liberal epistemology had become.* The natural law basis of Locke's liberalism had been dispensed with. Bentham's "happiness" had been shown by Mill to be untenable. Liberal legal theory, by the late nineteenth century, had ceased to believe in the possibility of a unitary understanding of a common good and had moved to the "marketplace of ideas" metaphor and the empirical case system of legal education. Despite all these developments, liberalism at the international level failed to take into account these changes in the epistemic climate. The divergence between theory and practice only became wider as the century progressed.

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[88] *Ibid.*, 108. The similarity of Koskenniemi's terms to Mannheim's is not accidental.

The Harmony of Interests

Like their nineteenth century predecessors, twentieth century liberals asserted that a harmony of interests existed between the pursuit of instrumental interests for their own sake and the public good. In 1912, Norman Angell, in *The Great Illusion*, argued that war was not cost-effective policy and that political leaders, if educated about the malignant economic consequences of war, would make other choices.[89] This reflected that long-standing liberal faith in the connection between education and enlightenment. As the events of 1914 showed, it was Angell's theory that was to prove illusory.

The same could be said for Woodrow Wilson's international vision which contained fatal contradictions of its own, contradictions which still haunt international relations. Wilson supported two contradictory objectives: self-determination (which implies non-intervention) and the presence of enforceable public international law. Wilson believed in the liberal tenet of consent being the basis for legitimate government. But, his theory is undermined by the same problem contemporary liberalism faces of being unable to reconcile the rights of individuals with the rights of ethnicity. Self-determination on the basis of ethnicity continues to wreak havoc in the international system. How liberal states can be committed to state sovereignty and self-determination is a problem not yet solved. As Morgenthau points out, this contradiction was one reason liberals were

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[89] Norman Angell, *The Great Illusion* (London: G.P. Putnam, 1912).

unable to stand up to Hitler's pre-war annexations of territories with large German contingents.[90] According to one pole of liberal theory, his acts were perfectly justifiable.

These contradictory views reflect Koskenniemi's criticism of international law: there is an untenable combination of positive sovereignty and naturalistic morality in Wilson's agenda. And, as the Nuremburg trials later showed, which element was to be emphasized depended upon political circumstances, a fact which revealed liberal rule-oriented discourse to be an assertion of power rather than reason. In the Nuremburg trials, liberals, who had long since discarded natural law theory apart from state consent, exchanged the emphasis on state sovereignty for international morality. This allowed them to convict Germans, acting under the positive law of a sovereign state, of crimes against humanity, an entirely new charge in international law.

But inconsistency at the level of policy conduct is hardly news. Observations about this inconsistency is part of the perennial critique of liberalism by realists who see any foreign policy pursuit not focused upon some definition of interests as muddled and dangerous. What is more challenging is the disjuncture between ethics and epistemology in liberal theory. When one examines the elevated moral language of liberal theorists, such as that found in modern human rights documents concerning civil and political rights, or the lofty goals of those engaged in international institution building,

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[90] Morgenthau, *Scientific Man*, 54.

such as bringing about an end to global conflicts, it is difficult to pinpoint the theoretical source for such language given the current state of liberal theory in law and politics. How we got to that point has been the focus of this chapter. 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.

CHAPTER 3

DECONSTRUCTING LIBERALISM

This chapter takes up the communitarian and postmodern critiques of liberal theory. While communitarians attack the primacy of interests in liberal theory, postmodernists focus on liberalism's rationality, rule-orientation, and equity. Earlier chapters examined the origins of both of these qualities in liberal theory, qualities that have resulted in pendulum swings between passivity in dealing with international conflict and millenarian attempts to create a peaceful world order. While classical liberal scholars integrated interests and ethics, modern liberal thinkers have been less successful in this venture. Methods of analysis derived from deconstruction show why this is so.

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. In the case of international liberalism, that opposition is found in the two poles of international ideals versus sovereignty and self-determination. These poles, in turn, are connected to another opposition, the universal requirements of law versus

individual conceptions of national interest. The ideal of community depends on the ability of nations to make rules for themselves. The ideal of sovereignty depends upon a belief in interests as preferences which are outside of rational criticism. Both oppositions are absolutely necessary to liberal theory yet the components of each stand opposed to each other.

This chapter examines each of these critical elements of liberal theory by reflecting upon the communitarian and postmodern critiques. Communitarians critique interest-seeking and the liberal emphasis on autonomy and rights. Postmodernists, especially critical legal scholars, have opposed the deontic or rule-oriented aspect of liberal law. But these critiques do not stand alone. Neither communitarian theorists nor postmodernists offer a viable theoretical solution to the problems they reveal in liberal theory; hence, they must be transcended as well.

The Present State of Liberal Theory

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. Political economy, microeconomic theory and its social science equivalent, rational choice theory, did much to support the idea that preferences could stand in place of more traditional ethical conceptions.

While Anglo-American thought emphasized instrumental rationality, Continental thought 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. But rather than opposing instrumental reason with a classical conception of reason, the postmodernists appealed to the non-rational and the aesthetic as a basis for critique.

Max Weber brilliantly combines instrumentalism and postmodernity, thereby solidifying his influence over the social sciences. Weber is of great importance because he takes both Nietzsche and science seriously, something that would have rendered the work of a lesser scholar

unintelligible. Perhaps the reason many social scientists are comfortable with Weber is because he mirrors the current *Weltanschauung* so well. Values are created and held relative in his theory, while the instrumental is equated with the rational.

Thomas Spragens characterizes this philosophical composite as "positivist pluralism," a term that fits nicely with the liberal version of Weberianism. He sums up its essential features in the following way:

> Democratic politics is not the story of any grand ideological vision. It is not even the story of a quest for justice or for the common good, both of which are rhetorical concepts of no cognitive meaning anyway. Instead, democratic 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."[1]

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. To see how this is so, it is necessary to return to the characteristics ascribed to liberal theory by Mark Zacher, Richard Matthew, and Charles Kegley. Zacher and Matthew cite a number of characteristics that provide the common threads of various liberal schools. International liberalism is progressive; it

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[1] Spragens, *The Irony of Liberal Reason*, 291. Emphasis added.

holds that peace justice and welfare are realized by international cooperation, that these values are enhanced by the effects of modernization, and that individuals are the primary actors in the international sphere.[2] History is ateleological, according to Zacher and Matthew.[3] They believe that there should be no "expectation that men will converge upon a single, shared view of the ends of life."[4] But 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 notions of progressivity and discusses "good" human nature versus "bad" human behavior, as well as behavior brought on by "evil" institutions. More importantly, Kegley states that "international society must reorganize itself institutionally to eliminate the anarchy that makes problems such as war likely."[5] In addition, he states: "War and *injustice* are international problems that require collective or multilateral rather than national efforts to eliminate them."[6]

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[2] Zacher and Matthew, 117f.

[3] *Ibid*, 109.

[4] *Ibid.*

[5] Kegley, "The Neoliberal Challenge," 4.

In his work on peace settlements, Kegley argues that the core of liberalism, which distinguishes it from realism, is adherence to ethical principles.[7] This assumption lays the foundation for his entire approach to war and peace; 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. Kegley assumes this is a problem liberal theory has already solved.

These statements reveal a pattern of movement from relative to absolute ethical claims and from preferences to 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, in Orwellian terms, 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

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[6] *Ibid.* Emphasis added.

[7] Charles W. Kegley Jr. and Gregory A. Raymond, *How Nations Make Peace* (New York: Worth Publishers, 1999), 21.

from relative to absolute, liberals often appeal to coercion, as Kegley does, 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 nation. Nations contain structures of positive law and, as Weber put it, the monopoly on legitimate violence. It is quite another to coerce a sovereign nation 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 absent 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 colonial power, it is taken by a greater number of nations in the UN Security Council, four of whom are former colonial powers.[8]

Liberals themselves have recognized that there is a tendency to allow absolutism to guide liberal nations into conflict. Doyle, following Hume, recognizes the tendency towards "imprudent vehemence" in liberal foreign policy.[9] Liberal states emulate a pendulum that alternates between passivity in dealing with some crises and vehement aggression

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[8] Of these, three, the US, France, and Britain, are liberal. The other, Russia, is presently and marginally liberal though quickly moving toward illiberalism.

[9] Doyle, *Ways of War and Peace*, 265.

in others.

> The best statistical evidence indicates that the "libertarian" or "democratic" states (slightly different measures) are not less war-prone than nonlibertarian or nondemocratic states. Indeed, in these measures they appear to be more war-prone. . . . Liberal states ("libertarian") acted as initiators in 24 out of the 56 interstate wars in which they participated between 1816 and 1980 while non-Liberals were on the initiating side in 91 out of 187 times.[10]

Though this recognition exists among some liberals, it does not appear that there is any keen awareness as to why it occurs. If there is no rational ethical theory to which liberals can appeal when making decisions about the implications of foreign policy, all such decisions must be, by definition, atheoretical and *ad hoc*. Judgment requires judicial criteria; if such criteria are considered outside the bounds of rationality itself, then one ought not expect policies that are both rational and ethical. One ought to expect interest-based behavior, defined narrowly, to prevail. Ironically, we often 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.

Interests and Collective Action Problems

Kant looms as a central figure to the analytical questions dealt with in this chapter. His empirical theory of international relations relied on the interest-based

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[10] *Ibid.*, 268f. R.J. Rummel's study of international violence confirms this tendency though he finds that liberal states initiate wars less often than illiberal states. See R.J Rummel, "Libertarianism and International Violence."

theory of "asocial sociability," whereby men, despite their asocial tendencies, eventually construct peaceful relations primarily through trade and commerce because it is in their interest to do so. In this way, he was in line with the political economists of his time, such as Smith and Ricardo, as well as with the later utilitarians who saw interests as the source of the rational itself.

The *normative* aspects of Kant's international theory, however, could not be less utilitarian. While he appealed to interests in *Perpetual Peace*, this was purely a matter of empirical observation rather than normative desire. Kant clearly believed he was placing ethics upon a firmer foundation than what was provided by natural law. Be that as it may, asocial sociability was, for Kant, of the same *a priori* quality as gravity was for Newton's inverse square law.[11] Interests would lead to the perpetual peace and the *foedus pacificum* as surely as gravity attracted matter to matter.

The Problem with Interests

In order to examine why interest-theory is a problem for liberal international thinkers, it is not even necessary to turn to the communitarians *per se*. Rather, one can look at the figure who has done so much to herald the present triumph

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[11] Kant, "Idea For A Universal History from a Cosmopolitan Point of View," chap. in *Kant on History*, ed. and trans. Lewis White Beck (New York: Macmillan, 1985), 12. Actually, Kant mentioned both Kepler and Newton as both expositors of and creations of the same Nature which has produced man's asocial sociability.

of liberalism, Francis Fukuyama. In *The End of History and the Last Man*, Fukuyama argues that "liberal democracy may constitute the end point of man's ideological evolution and the final form of human government."[12] 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.[13] 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 distinctive from the mainstream.

> Liberal democracies . . . are not self-sufficient; the community life on which they depend must ultimately come from a source different from liberalism itself. The men and women who made up American society at the time of the founding of the United States were not isolated, rational individuals calculating their self-interest. Rather, they

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[12] Fukuyama, *The End Of History*, xi.

[13] *Ibid.*, 73f.

> were for the most part members of religious communities held together by a common moral code and belief in God. The rational liberalism that they eventually came to embrace was not a projection of that pre-existing culture, but existed in some tension with it. "Self-interest rightly understood" came to be a broadly understandable principle that laid a low but solid ground for public virtue in the United States, in many cases a firmer ground than was possible through appeal to religious or pre-modern values alone. *But in the long run, those liberal principles had a corrosive effect on the values predating liberalism necessary to sustain strong communities, and thereby on a liberal society's ability to be self-sustaining.*[14]

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 the citizen of a liberal state . . . would ever serve in the army and risk his life for his country in war. For if the fundamental natural right was self-preservation of the individual, on what grounds could it ever be rational for an individual to die for his country rather than trying to run away with his money and his family? Even in times of peace, Hobbesian or Lockean liberalism provided no reason why society's best men should choose public service and statesmanship over a private life of money-making. Indeed, 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.[15]

Locke clearly did not believe this tendency toward a narrow view of interests would be the end result of his

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[14] *Ibid.*, 327. Emphasis added.

[15] *Ibid.*, 160f.

rationalizing project. Locke, indeed, placed a number of circumscriptions around the concept of interest, most of which were derived from natural law. Yet Fukuyama is instructive concerning the evolution of thought that has arisen from classical liberal origins in which those circumscriptions were replaced by preferences.

Fukuyama does not mention the effect that interest-seeking has on solving collective action problems at the international level. But one could make an analogous argument for international politics. Just as one strives in vain to find good reasons for this first man to act unselfishly, one could strive in vain to understand why nations ought to contribute to solutions of common problems in coordination.

Fukuyama's critique of interests is similar to that of Nietzsche, who equated bourgeois democracy with the shopkeeping mentality of English liberals.[16] 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 solve. Indeed, it must be solved 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

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[16] Friedrich Nietzsche, *Twilight of the Idols*, Aphorism 12 in "Maxims and Arrows", in *The Portable Nietzsche*, ed. and trans. Walter Kaufmann (New York: Viking Press, 1968), 468. Nietzsche states, "Man does not strive for pleasure, only the Englishman does."

nationalism--just as it did religious intolerance--in order to secure global peace.[17] But liberal nations must also satisfy the spiritual (what he calls *thymotic*) 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.[18] This would put an end to the separate peace among once-liberal nations.

Mancur Olson's work, *The Rise and Decline of Nations*, reinforces Fukuyama's claims about the consequences of interest-seeking for solving collective action problems. Olson deals with the problem of interest-seeking at the national level but his thesis could just as easily be applied to the society of states. Olson believes that there exists within nations interest groups with high incentives to redirect resources to themselves. He vividly likens this process to "wrestlers struggling over the contents of a china shop."[19] In the language of political economy, these are rent-seeking agents who have little incentive to contribute to the solution of collective action problems. Over the life of a nation, these groups become better organized and more skilled

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[17] Fukuyama, *The End of History*, 271.

[18] *Ibid.*, 288.

[19] Mancur Olson, *The Rise and Decline of Nations* (New Haven: Yale University Press, 1982), 44.

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.[20]

Olson's theory is clearly applicable to international life; for example, global collective action breakdowns often lead to global violence. As we have seen, the liberal international agenda is ameliorative and progressive. But it is an agenda which requires cooperative action. As Olson's theory predicts, lacking specific "selective" incentives, liberal nations acting on the basis of interest often fail to secure public goods.

The Versailles Treaty and its economic consequences illustrate this principle. Keynes predicted that the agreement would have disastrous consequences, not only for Germany but for the Allied powers as well. By seeking their short-term interests, the Allies found themselves facing a suboptimal outcome in the two decades that followed. Keynes, and US Treasury Secretary Harry Dexter White, attempted to ameliorate these conditions after the World War II through the creation of the World Bank and the International Monetary Fund. In addition, they sought currency stability through a

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[20] *Ibid.*, 146-180. Olson deals for the most part with macroeconomic variables but he also deals with social issues as the title of chapter 6 of his book indicates: "Inequality, Discrimination, and Development."

fixed rate exchange system in which currencies would be linked to the US dollar, which was itself linked to gold. The US sustained this system until the early 1970's when, unable to continue paying for the costs of two wars simultaneously, one on poverty and the other on the people of Vietnam, the US defected from the system.[21] 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.

Other cases of Olsonian logic abound in a number of different areas of international affairs. In the area of human rights, for example, of the twenty conventions on human rights, the US is either not a signatory or has signed but not ratified fourteen of them.[22] 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 such thorny problems, signed the instrument in 1993 but declared that this signature merely signified agreement in principle and should in no way be construed as agreement to it as binding law.

In the case before the International Court of Justice,

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[21] Joan Edelman Spero, *The Politics of International Economic Relations,* Fourth Edition (New York: St. Martin's Press, 1990), 44.

[22] William R. Slomanson, *Fundamental Perspectives on International Law* (New York: West Publishing, 1996), 497f.

Nicaragua v. US (1985),[23] 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.

The US is, of course, not the only liberal nation to flout international law when it is convenient. One can raise the same point about the French in the Rainbow Warrior Incident, in which the French government destroyed a Greenpeace vessel and killed a member of the crew,[24] British selectivity in complying with decisions of the European Court of Justice, or the EU's unwillingness to abide by decisions of the World Trade Organization. US actions simply carry more consequences than those of other nations because of its present political, military, and economic power. Nor is this point raised to argue that US reticence to make certain agreements is always unjustified. In the case of Clinton's hesitance to accept the Rio Conference provisions as binding, the President articulated valid concerns about intellectual property rights that needed further protections. With regards

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[23] *Case Concerning The Military And Paramilitary Activities In And Against Nicaragua, (Merits)*. Hereafter cited as *Nicaragua v. United States of America*. In *International Court of Justice: Case Summaries* (27 June 1986): 24 pp. 8 March 1999 <http://www.icj-cij.org/icjwww/idecisions/isummaries/inussummary860627.htm>.

[24] See 26 *Int'l Legal Materials* 1346 (Washington D.C.: American Society of International Law, 1987).

to the Kyoto Convention on Climate Change, the Administration signed knowing that ratification was impossible. The US Senate made it clear that the provisions written into the Treaty, giving 130 nations significant exemptions to control agreements, was unacceptable. The resolution articulating this concern passed the Senate on a bipartisan basis. This 95-0 vote included Senators with serious concerns about the environment; it cannot simply be passed off as a case of parochial jingoism.

While all cases of defection from a system may not be due to narrow Olsonian interest-seeking, all Olsonian behavior does lead to defection and breakdown of collective problem solving systems. One can justifiably argue that securing copyright laws is a good thing for all states; it is much harder, however, to make this argument for the illegal withdrawal of jurisdiction from the ICJ, for killing environmentalists, or blowing up their vessels. If "selective incentives," are all that can motivate liberal actors, the system cannot efficiently solve the collective action problems that require transnational solutions. Among these are precisely the issues mentioned above, wealth distribution, peace, the environment, and resource scarcity.

What is 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. Why not simply shift negative externalities, the malificent consequences of certain actions, to developing nations? And it is not at all clear that democracies do not 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? These policies imply that there are ethical ends beyond interests to which liberals appeal, thereby resurrecting Fukuyama's point that liberalism must reach beyond itself to be coherent. Neutral principles do not appear to be sufficient to motivate the "first man" of liberal theory to transcend himself. Communitarians contend that, ultimately, this defect in liberal motivations makes sustainable liberal life difficult, if not impossible, to achieve.

What is revolutionary about the communitarian argument is its assertion that the very element of liberal theory designed to ensure peace and prosperity, interests, will, if left unchecked, lead to its eventual demise. This hearkens back to Offe's definition of systemic contradiction cited

earlier: "a contradiction is the tendency inherent within a specific mode of production to destroy those very pre-conditions on which its survival depends."[25] 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 (and Rousseau'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." Just as with other commercial pacifists like Smith, Ricardo and Keynes, 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.

Deontic 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

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[25] Cited in Cox, 32.

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.

Stanley Jaki describes Kant's reliance upon imagination as the key to the attempt to unite the mind with reality.

> It must have been with secret despair that at long last Kant credited the unity of mind and phenomena to the faculty of imagination. Imagination was hardly the concise, scientific, logical factor which, to all expectation, should have served as the keystone of the arch representing the structure and genesis of valid knowledge.[26]

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 theorists.

Despite the troubling implications of Kant's ethical theory, deontology remains one of the primary ethical standards of international liberalism. This is especially true of assertions made about the good for humanity in areas such as human rights. Thomas Donaldson writes:

> Kant's historical impact on [deontic ethics] is difficult to exaggerate, and the form itself probably constitutes the dominant contemporary tradition of moral reasoning among philosophers. . . .
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> It is worth noting in this vein that most contemporary rights-based theories are also deontological theories with Kantian affinities. Rights are principles that assign claims

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[26] Jaki, 120.

> or entitlements to someone against someone . . . that are usually interpreted as "trumping" precedence over *consequential* claims made in the name of collective welfare.[27]

The word 'consequential' in this passage is emphasized because it highlights a key difference between realist and deontic theorists. For Kant, something is right because the agent's *intent*, her will, is in accord with what is rational. Though a good consequential case may be made for such an action, it is irrelevant to the inherent rightness of that act. This makes perfect sense when we remember that the interaction of consequences with phenomena are outside the purview of direct knowledge or the noumenal realm.

The realist reply to this approach is that the principle of *fiat justitia; pereat mundus* is not a valid foreign policy option for the statesman concerned with the general welfare of the nation. What is accomplished for the cause of justice if the world, indeed, perishes? While this is surely a valid objection, there is a deeper problem with Kant's theory. 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.

> Kant is not of course himself in any doubt as to *which* maxims are in fact the expression of the moral law; virtuous plain men and women did not have to wait for philosophy to tell them in what a good will consisted and Kant never doubted for a moment that the maxims which he had learnt from his own virtuous parents were those which had to be vindicated by a rational test.[28]

One finds in Kant's ethics a suspicious correlation between

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[27] Donaldson, 150. Emphasis added.

[28] MacIntyre, 44. Nietzsche refers to this tendency of Kant to vindicate common wisdom as "Kant's Joke."

the rational and the pietistic Christian. This criticism echoes that made by Leo Strauss of the neo-Kantian[29] (and culturally pietistic Christian) Weber, whose intellectual integrity and scholarly values seemed hard to reconcile with the fact-value dichotomy.[30]

MacIntyre is also 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.[31] Donaldson is also troubled by this problem. He cites a particularly thorny problem in understanding a deontic approach to rule-making in the UN.[32]

Article 2(4) of the United Nations Charter instructs all

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[29] 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 4.

[30] Leo Strauss, *Natural Right and History*, Paperback ed. (Chicago: University of Chicago Press, 1965), 43. Strauss hints at this connection in Weber when he states, "One is thus led to think that Weber admitted the existence of absolutely binding norms, namely the moral imperatives. Yet one sees immediately afterward that what he said about the moral commands is not much more than the residue of a tradition in which he was brought up and which, indeed, never ceased to determine him as a human being."

[31] MacIntyre, 46.

[32] The UN, despite being comprised of most of the world's nations, liberal or otherwise, is based upon broadly liberal principles such as autonomy and a restricted form of majority rule. This is not surprising since it was created, for the most part, by liberal states. Koskeniemmi 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 Koskeniemmi, 72. See also UN General Assembly Resolution 2625, "Declaration on principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations," in Knud Krakau, Henning v. Wedel, Andreas Göhmann eds., *UN-General Assembly Resolutions* (Frankfurt Am Main: Alfred Metzner Verlag GmbH, 1975), 21-24.

> states to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state in any manner inconsistent with the Purposes of the United Nations." But even here, in one of the strongest proscriptions on intervention, two exceptions are identified: namely, self-defense and force authorized by the UN Security Council. But what, critics will ask, is to guide the UN Security Council in its deliberations about intervention if not consequential decisions? And, if the exceptions defining application of deontological principles are hostage to consequential considerations, then are the principles themselves not also hostage?[33]

Donaldson 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 themselves mean. Anthony Arend and Robert J. Beck have found there to be at least five new principles that 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.[34] These principles have, in practice, drawn upon older and well-established rules of international law for jurisprudential support. These developments would seem to support 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 deontic ethics is at the forefront of contemporary liberal

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[33] Donaldson, 154.

[34] Anthony Clark Arend and Robert J. Beck, *International Law and the Use of Force* (London: Routledge, 1993), 71-173. Each of these exceptions is given its own explanatory chapter.

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 deontic 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.

> The eighteenth-century philosophical defenders of natural rights sometimes suggest that the assertions which state that men possess them are self-evident truths; but we know that there are no self-evident truths. . . . In the United Nations declaration of human rights of 1949 what has since become the normal UN practice of not giving good reasons for *any* assertions whatsoever is followed with great rigor. And the latest defender of such rights, Ronald Dworkin (*Taking Rights Seriously*, 1976), concedes that the existence of such rights cannot be demonstrated, but remarks on this point simply that it does not follow from the fact that a statement cannot be demonstrated that it is not true (p.81). Which is true, but could equally be used to defend claims about unicorns and witches.[35]

Clearly there are problems with applying Kant's ethical theory. Those problems continue to affect the viability of a deontic solution to the need for ethics at the international level.

The Rawlsian Solution

To a great extent, the work of John Rawls has focused on ways around these dilemmas. In his *Theory of Justice,* he

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[35] MacIntyre, 69f.

constructs his now familiar synthesis of interests and unitary rule-based rationality.[36] In order 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 believes that applying his theory to states would result in 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.[37]

Though Rawls is dubious about extending international applications of his theory too far, it has been applied on a

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[36] John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press of Harvard University Press, 1971). See particularly 136-166. The interest of actors, not knowing where they stand in terms of desert, predisposes them to desire such equitable distribution, insofar as any other choice might lead to an inequitable outcome for them personally. The contract need not rely upon any normative principle of natural right or objective good, a fact implied by the use of the term *contract*. This contractual relationship, like all others, rests upon both consent and a calculation of interests.

[37] Rawls, *A Theory of Justice*, 378.

broader basis by Charles Beitz. Specifically, Beitz holds that the "state-as-individual" metaphor of other liberal theorists 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.[38] Considerations of state autonomy are irrelevant; autonomy is superseded by the requirement for social justice as justified by recourse to the Rawlsian contract. If state autonomy is irrelevant, so too then is 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 into 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 they could also be justified on the grounds that individuals in these nations have rights that are not protected by their governments.[39] One conclusion that can be drawn from this argument is that intervention is not only permissible but actually required if states are to act ethically.[40] This is particularly true if individuals rather than states are the

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[38] Charles Beitz, *Political Theory and International Relations* (Princeton: Princeton University Press, 1979), 77-81.

[39] *Ibid.*, 90.

[40] Beitz denies this but he includes a consequentialist empirical element that is wholly inappropriate in a deontic theory. See Ibid.

primary units of international law.

The roots of Rawlsian theory in Kant's ethical formulations have important theoretical consequences.[41] 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, but that role lies outside of what can be considered truly right behavior. Kant states:

> For if any action is to be morally good, it is not enough that it should *conform* to the moral law--it must also be done *for the sake of the moral law:* where this is not so, the conformity is only too contingent and precarious, since the non-moral ground at work will now and then produce actions which accord with the law, but very often actions which transgress it.[42]

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. The Kantian international actor may find himself in the peculiar position of justifying coercion in order to make concrete a theory based upon consent.

Rawls' contractarianism was a monumental contribution to modern ethical theory. But there are serious problems with his theory, many of which are identical to those found in Kant's theory. Roberto Unger[43] is dubious about the claim to

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[41] For Rawls' interpretation of the Kantian basis for his theory, see, *A Theory of Justice,* 251-257.

[42] Immanuel Kant, *Groundwork of the Metaphysic of Morals,* trans. H.J. Paton (New York: Harper Torchbook, 1964), 57f.

[43] Unger is difficult to categorize as a theorist. He is generally considered a member of the critical legal school yet he does have a constructive programmatic agenda that could be called left-

neutrality asserted by Rawls' theory. His concerns about deontic liberalism center on the inability of the theory to find "a neutral way to combine individual, subjective values."[44] When it comes to matters of actual legislation, Unger argues, the neutrality principle of liberalism shows itself to be unworkable.

> The difficulty with this [theory] is analogous to the objections against the earlier types of the substantive theory of freedom. The less concreteness we allow to the persons in the ideal position, the less they will have standards by which to legislate specific laws, leaving the problem of legislation unsolved. But the more they becomes like actual human beings, with their own preferences, the more they will be forced to choose among individual, subjective values in the ideal situations itself.
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> Both the formal and substantive theory of freedom are confronted and destroyed by the same dilemma, the impossibility of reconciling the needs for concreteness and for neutrality in the doctrine of legislation. The same premises that bring the liberal problem of freedom into being, the principle of subjective value and the related principles of rules and values, and of individualism, make the problem insoluble.[45]

This critique is similar to Koskenniemi's position, in that Unger alleges that liberal thought cannot solve the contradiction between ascending and descending principles. The rule-making or legislation function requires a certain concreteness that accounts for individual wants in very specific areas; however, those wants must be dealt with neutrally, that is, according to some descending principle of

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communitarianism. His 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 Roberto Unger, "The Critical Legal Studies Movement," in *Critical Legal Studies*, ed. Allan C. Hutchinson (Totowa, NJ: Rowman and Littlefield, 1989), 334.

[44] Roberto Unger, *Knowledge and Politics* (New York: The Free Press, 1975), 86.

[45] *Ibid.*, 87.

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.[46] 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 states, it only postpones it. Koskenniemi is doubtful as well, stating that Rawls' theory leads to "embarrassing questions about how to justify our concept of 'fairness' so as to avoid the objections voiced against naturalism."[47]

The Communitarian Critique of Deontology

Michael Sandel's communitarian critique of Rawls' theory is similar to that of Unger and Koskenniemi. Sandel sees the hypothetical contract not as the liberating device it was meant to be but just the opposite, a means of disempowerment.[48] He is also disturbed by the moral implications of this hypothesis. The deontological self is devoid of moral experience. Its preferences are arbitrary because there is really no "self" to draw upon. ". . . [T]he

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[46] This point is made, for example, by feminist critics of Rawls. Mari Matsuda is dubious of Rawls' thought experiment and the values it presupposes. See Mari J. Matsuda, "Liberal Jurisprudence and Abstracted Visions of Human Nature: A Feminist Critique of Rawls' Theory of Justice," in *Feminist Legal Theory: Foundations*, ed. D. Kelly Weisberg (Philadelphia: Temple University press, 1993): 476-484.

[47] Koskenniemi, 35.

[48] Michael Sandel, *Liberalism and the Limits of Justice*, Second Ed.(Cambridge, UK: Cambridge University Press, 1998), 177.

deontological self, being wholly without character, is incapable of self-knowledge in any morally serious sense."[49] 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.[50] This leads to another question only hinted at by Sandel. Is the understanding of justice as fairness one that is held to be universal for all rational actors at all times, or is it the result of particular concatenation of events in a specific intellectual environment? Rawls himself was troubled by this question and addressed it in his more recent work, *Political Liberalism*.

Whereas *A Theory of Justice* was grounded in a Kantian understanding of rationality and personality, in this latest work 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.[51] Whatever our private attachments, they must be detached from our participation in public life.

What distinguishes this revision from the earlier

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[49] *Ibid.*, 179.

[50] *Ibid.*, 182.

[51] John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), xx-xxi.

hypothesis is that Rawls' theory is limited to political decision-making in democratic societies. For the first time, we see that his theory rests upon the political culture of liberal societies.[52] In accord with the turn to political culture, Rawls 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.[53]

Sandel recognizes the changes in Rawls' theory but, again, sees the argument as fundamentally flawed. First, Rawls would have us bracket moral questions in order to secure a greater level of political cooperation. But, as Sandel points out, we must also assume that any moral or religious claims are untrue. For if they were true, they may have preeminence over the value of political cooperation. Sandel looks, for example, at the case of slavery. 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 be ended.[54] This case highlights the gap in Rawls' theory between the beliefs that are to be bracketed and the actual experience of liberal politics. There is a great deal of difference between the construction of hypothetical constitutions and real ones.

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[52] *Ibid.*, xxi. Though Rawls believes the Reformation was critical to the development of liberalism, he seems to think it the result more of an accident of circumstances than due to any inherent characteristics of Reformed theology. See especially pps. xxi-xxviii.

[53] *Ibid.*, 147.

[54] Sandel, 199.

Sandel also critiques Rawls' assumption that, although we have disagreements about good ends politically, those disagreements should not invade the realm of right. In other words, the reasonable pluralism of democratic society is somehow kept out of questions about justice. Sandel argues that, just as Rawls' claim for the superiority of his theory of distribution over that of libertarians can be justified by reason (a point with which Sandel agrees), so too can arguments about the moral and the good. They should not be bracketed off as beyond reason or beyond politics.

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.[55] But 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

[55] *Ibid.*, 249f.

impoverishment of the public discourse of Martin Luther King Jr. had his religious and moral arguments been bracketed. Imagine how different the language of Jesse Jackson's presidential campaigns would have to be in order to meet the Rawlsian standard. Or one could inquire into the similar rhetoric of his son who, at present, serves in the US Congress. Surely this must be "public language." Yet, it seems inappropriate in the deontological world where moral and religious appeals are not rational and ought not appear in the public square.[56]

The problem of bracketing moral principles at the international level is more problematic than at the domestic level. This is true for two reasons. If states need a certain level of development in order to recognize the value of justice as fairness, then how can the rule be universally applicable? Once Rawls detaches his theory from a particular conception of man and limits it to a particular type of polity, it is difficult to recognize the theory as deontic. Second, just as domestic discourse is impoverished by the bracketing of moral and religious elements, so too is international discourse, both normatively and empirically. The problem is, in fact, more serious internationally. In the

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[56] 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 persuaded by religious appeals, just as they had been during the abolitionist debate. Rawls, in the end, renders illegitimate the reasoning of almost all of the political accomplishments of the religious left in the US and Europe, presumably regions "advanced" enough to move beyond comprehensive theory. *Political Liberalism*, 249f.

absence of global government, states can rely on discourse to bring about change within other states; yet Rawlsian discourse is narrow and constrained, and will probably not be well received in illiberal states. Strong states, on the other hand, can rely upon coercion to carry out global policy as they see fit. Given his belief in non-intervention, Rawls would presumably preclude the second possibility, and so we are thrown back upon the first. Once again, we confront the historical fact that the expansion of rights has, more often than not, relied upon the kinds of appeals that incorporate ethical discourse that ought to be bracketed.

The crusade by William Wilberforce to make British foreign policy anti-slavery relied heavily upon religious language. As Britain was the nation securing the freedom of the seas in the nineteenth century, this was very much an international issue. Or would the issues surrounding the Holocaust have made much sense without the incorporation of religious language and the particular ontological quality of "Jewishness"? Can Jews who lived through that experience be asked to see themselves not as a specific group with specific reactions to history but rather as unencumbered selves? In the arena of international affairs, where anarchy prevails, it makes little sense to require a broad separation between civil society--which can incorporate moral and religious language--and the public realm which cannot. In fact, one of the key elements of liberal international theory is the recognition of the decline of the nation-state and the rise

of non-state actors. Liberals rightly celebrate this development as ameliorative; global civil society can now have a positive effect on global issues. But it hardly seems reasonable to place liberal theory upon a foundation in which much of the public discourse that arises from that development must be excluded.

As long as illiberal states exist, it will be difficult to apply deontic ethics. Rawls' theory, and Beitz's applications of it, do not account for the fact that many states still exist that do not value liberal ideals. And those illiberal states often rely upon moral language in international policy-making that is ill-suited to deontic theory. In addition, these states also draw heavily from the parochial language of interests rather than rational rules that are universally and neutrally applicable.

Both pillars of liberal theory, interests and rational rules, encounter serious obstacles in attempting to provide a viable international ethic or a reasonable description of international behavior. This is only magnified when we recall that liberal international discourse relies on both rules and interests depending upon the situation. Deontology cannot incorporate the kinds of specific interests found in everyday foreign policy discourse. A policy that cannot account for consequences is not only limited but dangerous. Nor can the language of utility retain a place for rights that is as secure as the language of international rights documents make them out to be.

Communitarian theory lays bare many of the contradictions within the late liberal synthesis. Communitarians focus on both aspects of liberal ethics and policy, the interest-oriented and the deontic. Postmodernists, on the other hand, focus on the way liberals preserve the ideal of law as a central concern of liberal order. Yet liberalism, as postmodernists argue, privileges the discourse of law by masking acts of power through legal language, an argument also made by realists. One great irony of these critiques is that liberals, postmodernists, and many realists rely upon different aspects of Kantian theory, thereby revealing the tensions within it. Thus, it makes sense to return to Kant momentarily to see how his theory gave birth to the very postmodern elements used to critique his ethical positions.

Nietzsche, Postmodernity and Liberal Theory

Kant sought to carve out a separate autonomous realm for the aesthetic. His *Critique of Judgment* laid the basis for this autonomy, describing the nature of the aesthetic as "purposiveness without purpose." In *The Birth of Tragedy out of the Spirit of Music,* Friedrich Nietzsche states that Kant played an important role in shifting aesthetic judgment from the rational to the intuitive. This 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.[57] The autonomy of the aesthetic is important because of the way that future theorists reacted to Kantian premises, particularly those in the postmodern school and the critical legal studies movement.[58] As the next chapter shows, for example, the intellectual autonomy found in Kant's vision of the aesthetic affected both the theory and the practice of international relations by realists.

The beginnings of postmodernism are found in Nietzsche who recognized the inherent ethical assumptions--more often than not Christian in origin and in substance--in the philosophy of his day. These assumptions had been subtly insinuated into philosophy, and Nietzsche saw it as his life's work to root them out. 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. MacIntyre shows why Nietzsche's philosophy was so devastating to the Enlightenment project of rationally grounding ethics.

> In a famous passage in The Gay Science (section 335) Nietzsche jeers at the notion of basing morality on inner

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[57] David H. Richter ed., *The Critical Tradition: Classic Texts and Contemporary Trends*, Second Edition (Boston: Bedford Books, 1998), 255.

[58] On the origins of postmodernity in interpretations of Kant's *Critique of Judgment*, see Thomas Pangle in *The Ennobling of Democracy* (Baltimore: The Johns Hopkins University Press, 1992), 23-26, Stanley Rosen's *Nihilism* (New Haven: Yale University Press, 1969), 81, and Allan Megill's *Prophets of Extremity: Nietzsche, Heidegger, Foucault, Derrida* (Berkeley: University of California Press, 1985), 4f.

> moral sentiments, on conscience, on the one hand, or on the Kantian categorical imperative, on universalizability on the other. In five swift, witty and cogent paragraphs he disposes of both what I have called the Enlightenment project to discover rational foundations for an objective morality and of the confidence of the everyday moral agent in post-Enlightenment culture that his moral practice and utterance are in good order.[59]

In Nietzsche's thought, the public/private distinction in liberal thought is shattered.[60] 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 these creators 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.[61] Rights, interests, and the rest of the trappings of liberal language belong to the "last man," the despicable creature

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[59] MacIntyre, 113.

[60] 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 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, Hannah Arendt, "Power and the Space of Appearance," in *The Human Condition* (University of Chicago Press, 1958), 199-212.

[61] See Nietzsche's critique of English moral hypocrisy on this point in *Twilight of the Idols*, Aphorism 5 in "Skirmishes of an Untimely Man", 515f. 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."

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,"[62] 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 who can create new tables of values for us; but there is absolutely no guarantee that they will be liberal values.

Heidegger's flirtation with National Socialism illustrates this problem as does Paul DeMan's anti-Semitic writings during World War II, a point I will explore in the next chapter. One can read the writings of other postmodernists--Michel Foucault, Jacques Derrida, and Jacques Lacan--and rightly wonder where there can possibly be room to secure rights or even the most basic kinds of equity. For these writers, all discourse is fictive. All accounts of the world are mythical, aesthetic creations designed to make

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[62] Nietzsche, *Twilight of the Idols*, Aphorism 26 in "Maxims and Arrows", 470. He means here that all system-building in pursuit of eternal verities reveals weakness of spirit.

sense of chaos to an ego that is itself a fiction. When Derrida states that "Il n'ya pas de hors texte," (There is nothing outside the text), this is what he means. All interpretations are just that, interpretations, not truths. What matters most is the aesthetic quality of the interpretation, in other words, its power as art.

The incompatibility of humanism and much of postmodern theory is not as clear as it ought to be because of ethical commitments by more recent postmodern writers, commitments that their methodology does not account for and which Nietzsche would have disdained. The epistemology of postmodernity, with its denunciation of metanarratives, or any overarching discourse, is not compatible with the ethical needs of liberalism. This includes even the minimal needs of procedural justice. 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."[63] 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 amenable to liberal consciousness. Nietzsche's thought has been tamed and made more amenable to

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[63] Allan Megill, 343.

those with democratic sympathies by postmodernists and late liberals alike; he is now rendered as a kind of Teutonic Mill. In addition, Megill ignores the role postmodernity plays in almost all universities and in popular culture of liberal societies. We cannot be certain that the pluralism of postmodernity will reinforce the pluralism of liberal theory. They are not one and the same.

The Critical Legal Argument Against Liberal International Jurisprudence

While Nietzsche was mainstreamed by Weber, his thought entered into jurisprudence via the Critical Legal Studies movement (CLS). 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 20th century. One might say that Nietzschean procedure is combined with Marxian substantive norms in critical legal theory. Two primary Nietzschean assumptions are made by members of the CLS movement: the notion that ethics are socially constructed and the belief that the language of reason masks assertions of power made by the will.

Nigel Purvis, explaining CLS theory in international law, states 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."[64] From Foucault, CLS theorists borrow the notion that power creates consciousness which is perceived as "truth" (*pouvoir/savoir*); from Derrida they borrow what Heidegger called a "pernicious ontological relativism" that leads to the indeterminacy principle.[65] The principle states that no particular adjudicated outcome is necessitated by a given rule of law.

For postmodernists, politics is the realm of creative, not rational, activity. Rationality 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 definition, giving birth to thinking about rules in terms of binary oppositions. Within every opposition, one term is privileged over another, say postmodernists, for political reasons. These oppositions predetermine the avenues of discourse possible in legal reasoning.[66] 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 group, some of which are dominant and others of which are oppressed. Judges can never speak or find "truth"; they

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[64] Nigel Purvis, "Critical Legal Studies in Public International Law," *Harvard International Law Journal* (Winter 1991), 89.

[65] For an example of the use of Derrida in a deconstruction of domestic liberal jurisprudence, see Matthew Kramer, *Legal Theory, Political Theory, and Deconstruction* (Bloomington: Indiana University Press, 1991), 95-144.

[66] Mark Tushnet, "Critical Legal Studies: a political history," *The Yale Law Journal* (March 1991), 1522.

can only represent the interests of classes. Because those interests represent inherently distinct forces, they can not 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.[67] Due to structural inequalities, no objective arena can exist. Thus, no outcome can be stipulated by 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 states that the application of neutral principles requires an "imaginative transposition of former world views into the categories of our own."[68] Somehow, the past must be made to fit the present. But this entails extreme difficulties as shown by the indeterminacy principle.

> [S]uch an imaginative transposition implies an ambiguity that is inconsistent with the project of liberal constitutional theory (and interpretivism). The project of imaginative transposition can be carried through in a number

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[67] Theda Skocpol and other state-centric theorists make a similar argument against the "arena" or pluralist structuralist-functionalist views of government held by Robert Dahl, David Truman, and others. See Peter B. Evans, Dietrich Rueschmeyer, and Theda Skocpol eds., *Bringing the State Back In* (New York: Cambridge University Press, 1985).

[68] Mark Tushnet, "Following the Rules Laid Down: A Critique of Interpretivism and Neutral Principles," in *Critical Legal Studies*, 162. Emphasis added.

> of different ways, with a number of different results, none of which is more correct than the others. 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.[69]

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 utter illusion used to propagate the notion that what is happening on the bench is somehow furthering justice as opposed to political goals. He expands this argument by pointing to several cases that are usually considered to serve as examples of improper judicial activity, including *Griswold v. Connecticut* and *Roe v. Wade*.[70] Both cases are useful in that their lack of philosophical subtlety reveals the political quality of all decisions. They show how judicial interpretation can simultaneously adhere to, and depart from, precedent.

Tushnet's point may seem simple and unremarkable, especially given the prevailing empirical, policy-oriented approach to judicial studies in American universities. It is true that, in some ways, CLS is simply a more virulent form of the legal realist critique of objective law. This critique holds that law is, in fact, created, not found, by judges.[71]

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[69] *Ibid.*, 162.

[70] *Ibid.* Tushnet sardonically calls Harry Blackmun's opinion in *Roe* "an innovation akin to Joyce's or Mailer's. It is the totally unreasoned judicial opinion."

[71] On judges as policy-makers and the role of legal realism in

But where many legal realists have been content to accept the political character of law and continue to work within a liberal framework, CLS theorists see this as unacceptable.

CLS has been devastating to attempts by liberal legal theorists to justify their jurisprudence in terms of neutral principles. CLS 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. To be successful, 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 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.[72] CLS theorist David Kennedy states:

> Discourse about process . . . dominates the field of international law. If process rules supreme, moreover, it also rules alone. Doctrines about problems of participation and authority in international legal life--doctrines which address actors and their jurisdictions--proceed relatively free of consideration of either substantive standards of behavior or sources of law."[73]

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bringing this role to light, see Walter F. Murphy, *Elements of Judicial Strategy* (Chicago: University of Chicago Press, 1964), especially 29-31.

[72] David Kennedy, "A New Stream of International Law Scholarship." *Wisconsin International Law Journal* 7(Fall 1988), 33.

[73] *Ibid.*, 32.

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 theorists see liberal international law as incoherent, relying upon premises that undermine each other. Liberalism rests upon the fundamental principle of individualism as state sovereignty, "international life's unencumbered unit."[74] Added to this is the liberal belief in subjective value. As Purvis states:

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[74] Purvis, 94.

> This radical epistemology emphasizes that moral truth and moral worth are subjective, because as an epistemological matter universal morality is unknowable. There is no accessible "objective value," intelligible essence," "virtue," or Platonic form.[75]

As a result of these assumptions, the decisions of sovereign states must be held to be of equal moral validity. Yet liberalism must find a way to deal with "competing claims of sovereign liberty."[76] States are given bundles of rights, and international law must apply neutral legal principles in light of those rights. But this is where 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."[77] 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. This threshold, to be made substantively meaningful, must appeal to some kind of "intelligible essence."[78]

This contradiction can also be substantiated in the relationship between the UN Charter and aggression. In order

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[75] *Ibid.*

[76] *Ibid.*, 95.

[77] *Ibid.*, 96.

[78] *Ibid.*

to justify aggression, liberalism must go beyond neutrality and appeal to substantive principles. Justification for aggression must be *ad hoc*. For example, Article 2 of the UN Charter discusses international activity in terms of "members," meaning states. And clear limits are place upon international jurisdiction over these states. For example:

> 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. . . .

Of significance here is the language of sovereignty written into the language of Article 2 provisions. Concern for national sovereignty is also manifest in the *Statute of the International Court of Justice*. Nations 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 nations 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 provide for Security Council authorization of force in some cases or for the self-defense exception found in Article 51. An abundance of other qualifications also exist on a de facto basis. Self-defense has been expanded to include anticipatory strikes, responses to terrorism, and protection of nationals.[79] 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.

The first act of aggression by NATO, an alliance of liberal states,[80] 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

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[79] Arend and Beck, 196-201.

[80] One can argue that Turkey's liberal credentials are questionable though it is the most liberal of Muslim states in existence. Doyle includes it within his list of liberal nations, stating that all four of Kant's criteria, market economy, sovereignty, juridical rights, and republicanism, are present. See Doyle, *Ways of War and Peace*, 263f.

self-defense.

> 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.[81]

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.[82]

These principles are reaffirmed in the official NATO Communiqué issued at the London Summit held in July 1990. The Summit was held in order 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.[83]

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, the NATO aggressors

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[81] The North Atlantic Treaty Organization, *The North Atlantic Treaty*, Washington D.C., Article 5(4 April 1949): 4pp. 5 May 1999 <http://www.vm.ee/nato/docu/basictxt/treaty.htm>.

[82] *Ibid.*, Article 7.

[83] The North Atlantic Treaty Organization, *The Alliance's New Strategic Concept*, Official NATO Communiqué, Agreed by the Heads of State and Governments participating in the meeting of the North Atlantic Council in Rome (7th-8th November 1991): 18pp. 6 May 1999 <http://www.vm.ee/nato/docu/comm/c911107a.htm#I>. Emphasis added.

in Serbia 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 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. It is one of the most striking and arresting critiques of liberalism and the one most difficult for liberals, engaged in what appears to them as progressive and ameliorative politics, to grasp.

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, however, are in view to justify the exercise of legal rationality. This is where the problem arises. As Unger puts it:

> The ideas [sic] 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.
>
> Moreover, when they view everything in the social world as a creature of the will, men come to believe there is nothing in society a will cannot preserve or destroy. Thus legalism and terrorism, the commitment to rules and the seduction of violence, are rival brothers, but brothers nonetheless.[84]

Liberal states follow other regimes in relying upon "experts" or bureaucrats to implement such compulsory bonding. MacIntyre devotes a substantial portion of *After Virtue* to explaining the link between emotive ethics found in liberal theory and the reliance upon "experts" to direct policy-making and application: the social scientist, the therapist, and the manager.[85] Weber saw this expansion of the

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[84] Unger, *Knowledge and Politics*, 75.

[85] MacIntyre, 75-108.

role of the expert-as-bureaucrat as central to the construction of the iron cage of modernity. Ralph Hummel, relying upon Weber's insights, describes this bureaucratic vision as follows:

> Bureaucracy gives birth to a new species of inhuman beings. Man's social relations are being converted into control relations.[86] His norms and beliefs concerning human ends are being torn from him and replaced with skills affirming the ascendancy of technical means, whether of administration or production.[87] Psychologically, the new personality type is that of the rationalistic expert, incapable of emotion and devoid of will.[88] Language, once the means for bringing people into communication, becomes the secretive tool of one-way commands.[89] Politics . . . is replaced by administration.[90]

If Nietzsche is correct about the will to power masking itself as rationality in liberal thought, as CLS theorists claim, then this pessimism about the expansion of experts' power is justified.

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

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[86] Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, 3 vols., eds. Guenther Roth and Claus Wittich, trans. Ephraim Fischoff *et al* (New York: Bedminster Press, 1968), 987; quoted in Ralph Hummel, *The Bureaucratic Experience* (New York, St. Martin's Press, 1977), 2.

[87] *Ibid.*

[88] *Ibid.*

[89] *Ibid.*

[90] *Ibid.*

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.

In the case of *Nicaragua v. United States of America,* the US relied upon the autonomy argument, denying jurisdiction to the International Court of Justice. 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.[91] 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.[92]

In the arguments on the merits of the case, the US, Nicaragua, and the ICJ all relied upon sovereignty in their

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[91] To see how this reservation was applied and the ICJ's response, see *Nicaragua v. United States of America, (Merits),* Section V.

[92] *Ibid.,* Section IX.

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).[93] At the same time, however, simultaneous sovereignty claims led to vastly different conclusions not only on the merits but also with regards 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 nations 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.

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[93] *Ibid.*, Section X(2).

In order to add weight to the argument for Balkan intervention, NATO appealed to the interests of liberal states. The theory of the "domino-effect," used to justify intervention into Vietnam, was used to distinguish America's intervention in the Balkans from its lack of intervention in other humanitarian crises around the world. But the appeal to interests cannot be an option for a late-liberal theory of law that requires neutrality and a consensual basis for action. Additionally, it is difficult to see how an interest-based conception of law distinguishes liberalism from its own conception of realism.

The Realist Critique of Liberal Moral Blindness

Realists, in fact, have been acutely aware of the problem of coercion latent in liberal legal theory. 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. Ironically, 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. Each of these theorists rely upon a critique of what they term "the harmony of interests" argument found in liberal theory. This term communicates the idea that what is best for the world is to follow liberal principles; whatever must be done to bring this to pass is justified. Morgenthau

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."[94]

Tocqueville was particularly concerned about this problem as it existed specifically *within* democratic nations because of the way policies were legitimized by the majority from whom there is no appeal.[95] But there is no reason that this tyranny might not apply to foreign affairs as well. In that instance, anyone standing in opposition to a policy of aggression, for example, could be seen not only as wrong but somehow irrational.

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

> [The Moralist] usually fails to recognise the elements of injustice and coercion which are present in any contemporary social peace. 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*

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[94] Morgenthau, *Scientific Man*, 76. One is hard pressed to distinguish this language from that attributed to Vito Corleone in *The Godfather* either asking or forcing his enemies to "be reasonable." Emphasis added.

[95] Tocqueville, 252.

> *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.*[96]

This critique is remarkably similar to that made by CLS theorists, who state 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 to the fact that liberal thinkers view international relations as simply 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.[97] 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. 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 regards to specific policy issues.

Morgenthau's position on US involvement in Vietnam illustrates this irony. Morgenthau objected to US involvement in Vietnam as far back as 1961, pointing out the folly and

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[96] Reinhold Niebuhr, *Moral Man and Immoral Society: A Study in Ethics and Politics* (New York: Charles Scribner's Sons, 1960), 233. Emphasis added.

[97] Morgenthau, *Scientific Man*, 107.

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."[98] It was the liberal Johnson Administration that carried out this aggressive policy with what Stanley Karnow refers to as "missionary zeal,"[99] and who savagely attacked the reputation of Morgenthau.[100]

Liberals often accuse realists of using deception to gain their objectives, a charge I examine in the next chapter. However, this charge must also be examined as it applies to liberalism. The similarity between the Allies' treatment of the Germans in World War I and NATO's treatment of the Serbs is remarkable. In both cases, states laid down their arms based on the guarantees of liberal leaders, the terms of which were then altered significantly. Again, this is not to defend the behavior of Germany or Serbia. These examples do shed light, however, on the precarious moral position of liberal policy.

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[98] Hans J. Morgenthau, "U.S. Misadventure in Vietnam," *Current History*, LIV (January, 1968), 29-30. Cited in Greg Russell, *Hans J. Morgenthau and the Ethics of American Statecraft* (Baton Rouge: Louisiana State University Press, 1990), 201.

[99] Stanley Karnow, *Vietnam: A History* (New York: Penguin Books, 1983), 255.

[100] Greg Russell, *Hans J. Morgenthau and the Ethics of American Statecraft* (Baton Rouge, LA: Louisiana State University Press, 1990), 200.

Communitarianism, Postmodernism, Realism: the Need for Transcendence

This chapter has examined liberalism from communitarian and postmodern perspectives. In addition, attention was devoted to the similarity between the postmodern and realist arguments that liberal jurisprudence can lead to coercion. But none of these critiques stand alone as an internally consistent, positive alternative to liberalism. Chapter Four explains why this is so for realism, the primary alternative to liberalism at the international level. In the remainder of this chapter, I examine the faults of communitarian and postmodern alternatives to liberal thought.

Communitarianism as a Corrective

Communitarianism is problematic as a constructive political theory because it is difficult to determine just what the term entails. Even scholars who have been placed within the communitarian camp, like MacIntyre, Walzer, or Sandel, either deny the appellation's appropriateness or carefully redefine it.[101] Walzer, for example, believes communitarianism should serve as a corrective to liberalism rather than as a self-sufficient theory.[102] Walzer's international theory is consistent with this statement. States have the right to be governed only by their consent.

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[101] See, for example, Sandel, x.

[102] Michael Walzer, "The Communitarian Critique of Liberalism," *Political Theory* (February 1990), 15.

The legal principle of non-intervention is important as it reflects communal autonomy,[103] though state behavior may be subject to international social criticism.[104]

Communitarians often point to the example of Athens as a model of civic engagement where virtuous persons could express themselves politically. But, as Benjamin Barber rightly points out, "Contemporary America remade to specifications of ancient Athens would probably come to resemble not Athens but wartime Berlin."[105] It is difficult to imagine an acceptable mode of political organization that does not limit the power of the state in some way. Liberalism presently does this by asserting the primacy of the morally autonomous individual. Communitarians can only do this by appealing to structural characteristics like the distinction between the state and civil society borrowed from early liberal thought. Yet how state power would be limited precisely in a communitarian regime is unclear. This problem highlights the difficulty communitarian thought has in serving as a separate theory of regimes, as something other than a corrective to the excesses of liberalism.

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[103] David R. Mapel, "The Contractarian Tradition," in Nardin, *Traditions of International Ethics*, 192.

[104] Michael Walzer, *Interpretation and Social Criticism* (Cambridge, Mass.: Harvard University Press, 1987), 78f. Walzer relies upon his reading of the biblical books of *Amos* and *Jonah* to make this point.

[105] Benjamin Barber, "The Compromised Republic: Public Purposelessness in America," in Robert H. Horowitz, *The Moral Foundations of the Republic*, Third Edition (Charlottesville, Va.: University of Virginia Press, 1986), 57.

Postmodernism as Ontic Fragmentation

Postmodernists face a different problem. They argue that there must be a preservation of humanism and morality in politics; yet they have difficulty accounting for such qualities theoretically. The inability of rules and applications to ever meet in the middle is just as applicable to CLS theory as it is to liberalism. The synthesis of Nietzsche and Marx is eventually undermined by the Nietzschean element, rooted as it is in an eschewal of metannaratives and moral absolutes of any kind. Postmodern thinkers posit a radical epistemology connected to a radical ontology. 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" 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 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 arbitrary and coercive choice of one characteristic over another.

The evolution of CLS into an increasing number of subdisciplines reveals the collision of ontology and the need for stable legal personality. Feminist critical legal theorists have complained that the origins of CLS are white, male, and Ivy League, focusing 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."[106] CLS has given way to analyses based on gender, race, sexual orientation, religion, and various combinations of these and other elements.[107] Each critique claims a distinct legal personality with special rights based

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[106] Angela Harris, "Race and Essentialism in Feminist Legal Theory," *Stanford Law Review* 42(February 1990), 585.

[107] For examples of the possible permutations of legal ontology, see Kimberle Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," in *Feminist Legal Theory: Foundations*, 383-395; Fransisco Valdes, "Queers, sissies, dykes, and tomboys: deconstructing the conflation of 'sex,' 'gender,' and 'sexual orientation,' in Euro-American law and society," in *California Law Review* 83(January 1995), 1-377; Catharine MacKinnon, "Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence," in *Critical Legal Studies*, ed. Allan C. Hutchinson (Totowa, NJ: Rowman and Littlefield, 1989), 56-76; and Diane Polan, "Toward a Theory of Law and Patriarchy," in *Feminist Legal Theory: Foundations*, 419-426.

on those claims.[108]

The process of ontological fragmentation is well underway in international relations theory. For example, feminist scholar Rebecca Grant faults critical international theorists for developing theories that still "draw upon political and philosophical texts that contain gender bias."[109] 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 was used to justify oppressive policy.[110] 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 when engaged in analyses of colonialism or when discussing words like "oppressive." Nor are we ever certain why we ought to consider terms like

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[108] On the problem of arbitrary ascription of ontological characteristics in postmodern conceptions of law, see Matthew Kramer, *Critical legal Theory and the Challenge of Feminism: A Philosophical Reconception* (London: Rowman and Littlefield, 1995), 300.

[109] Rebecca Grant, "The sources of gender bias in international relations theory," in *Gender and International Relations*, eds. Rebecca Grant and Kathleen Newland (Bloomington: Indiana University Press, 1991), 19. See also Robert Keohane's excellent response to Grant and feminist IR theory in "International relations theory:contributions of a feminist standpoint," in *Gender and International Relations*, 41-50.

[110] Roxanne Lynn Doty, "The Logic Of *Différance In International Relations*," in *Post-Realism: the rhetorical turn in international relations*, eds. Francis A. Beer and Robert Hariman (East Lansing: Michigan State University Press, 1996), 331-345.

"Philippines" or "Filipino" as being stable or ontologically absolute. Or we could combine Grant and Doty's critiques in ways that would undermine the integrity of both. One can imagine a critique that is both feminist and race-oriented. 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 have, in fact, undermined the ability of minorities to make real gains in the area of civil rights.[111] These gains relied upon an essentially stable definition of those who had been harmed by state policy. 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 concept of "Jew" as a defense during the Nuremberg trials? 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. Like identity, good and evil are infinitely

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[111] John Hardwick, "The Schism Between Minorities And The Critical Legal Studies Movement: Requiem For A Heavyweight?" *Boston College Third World Law Journal* 11(Autumn 1991), 152f.

interpretable.

Nor can we be certain that the value-commitments of participants in political discourse will be amenable to the material objectives of distributive justice and equity that CLS theorists hold so dear. Just as in liberalism, where rights trump the good, so in CLS theory, Nietzsche trumps Marx every time. All horizons are socially constructed; any attempt to limit the implications of that fact involves an appeal to objectivism. That appeal is, to Nietzsche, a sign of the intellectual cowardice of one unable to rise above the slave morality of secularized Christianity.

Though he is sympathetic to CLS, Purvis recognizes the implications of this dilemma very clearly. To the degree that CLS and postmodernism have absorbed the radical epistemological assumptions of modernity, it cannot escape the contradictions of modernism.

> [M]odernist thought paralyzes deconstructionists, removing their ability to exercise judgment. 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. . . . Critical knowledge seems to offer little more than the opportunity to exist as a convincing nay-sayer. There is, therefore, a strange duality to the New Stream's epistemology. It can produce a reasoned critique of international utopian theories, but not offer its own alternatives.[112]

In this chapter, I have argued that neither liberalism nor its critics can articulate a vision of international ethics that can stand alone. The doctrines of interest and utility do not secure rights or distinguish liberal thought

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[112] Purvis, 123.

from its own conception of realism. Kantian epistemology does not allow for the humanistic ethics espoused by liberal scholars, including Kant. Kant's separation of the noumenal and the phenomenal, as developed and expanded by Nietzsche, is an ephemeral foundation at best for grounding ethics. Communitarianism, in turn, is prescriptively vague and cannot distinguish itself from the liberalism it critiques. Like liberals, postmodernists have trouble uniting their epistemology, their ontology, and their ethics. The alliance between Nietzsche and humanism is untenable and destructive. Realists have also been affected by Kant and Nietzsche. Like the postmodernists, the ability of realists to develop a consistent ethic has been undermined through a reliance on radical epistemology. It is to this point that I now turn.

CHAPTER 4

REALISM, TRAGEDY, AND POSTMODERNITY

In the previous chapter, I described the striking similarity between the postmodern and realist critiques of liberalism's moral blindness. But postmodernity and realism share something else as well. They share both a profound pessimism and a tragic vision of human life. In this chapter, I explain how this vision grows out of 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 becomes 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, with the exception of Reinhold Niebuhr, remain unsurpassed in laying out the roots 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 also entails a belief in progressive history that the Greek does not. These four also view man 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 are amoral in their 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 Chapters Two and Three, I described the division in Kantian epistemology between noumenal and phenomenal realms as well as the use of imagination to unite the two. In Chapter Three, I showed how Nietzsche's thought was affected by this division, leading him to assert that there are no facts, only interpretations. In *The Birth of Tragedy*, Nietzsche states that knowledge takes two forms, Appollonian and Dionysiac. The Appollonian consists of constructions of the human imagination, particularly those that are aesthetic, that help us forget the inevitable presence of death and

[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.

tragedy. The tragic is associated with the Dionysiac, which is related to the miasmic, the chthonic realm of nature, and a loss of individuality within the whole of being. Where the Appollonian involves rational perception, the Dionysiac is wildly irrational. While the Dionysiac is directly known, the Appollonian is, like the knowledge of phenomena in Kant's theory, indirect and known only at a distance. The constructed quality of the Appollonian 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 Greeks were keenly aware of the terrors and horrors of existence; in order to be able to live at all they had to place before them the shining fantasy of the Olympians. Their tremendous distrust of the titanic forces of nature: *Moira*, [fate] mercilessly enthroned beyond the knowable world . . . the Greeks conquered--or at least hid from view--again and again by means of this artificial Olympus. In order to live at all, the Greeks had to construct these deities.[2]

Just as the Greeks constructed their gods, so have modern 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, these men must rewrite a table of values from the ground up; they cannot be held to normal codes of

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[2] Friedrich Nietzsche, *The Birth of Tragedy out of the Spirit of Music*, in David H. Richter ed., *The Critical Tradition*, 422.

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 man's fundamental existential position. They would agree with Freud that man is engaged in a perennial struggle within himself 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] Realists have not

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[3] Sigmund Freud, *Civilization and its Discontents*, ed. and trans. James Strachey (New York: W.W. Norton & Co., 1961), 67f.

[4] Lacan is the figure which most immediately comes to mind. His

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

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belief that all knowledge is constructed, even scientific knowledge, is apparent in his reconstruction (some would say abuse) of scientific concepts. For an example of the misappropriation of science by postmodernity, see Alan Sokal and Jean Bricmont, *Fashionable Nonsense* (New York: Picador USA, 1998). See also Alan Sokal, "Transgressing the Boundaries: Toward a Transformative Hermeneutics of Quantum Gravity," in *Social Text* 46/47(Spring/Summer 1996),217-252 and Sokal, "A Physicist Experiments with Cultural Studies," in *Lingua Franca* (May/June 1996), 62-64. Both articles are also available online at http://www.physics.nyu.edu/faculty/sokal. Sokal is a physicist at NYU who humiliated a premiere postmodern journal with the article on postmodern physics that was full of simplistic errors. The first citation is the parody. The second is an article in which he explains his motivations, which were largely to discredit the misuse of science by postmodernists.

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 have held for Germans. 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 states:

> "Spirit," these academic intellectuals felt, had gone out of everyday experiences, leaving only a culture full of dead objects without inherent meaning or value. Their response to this was, for the most part, not to try to change the world but to withdraw into a sphere of elite "high culture," to defend their own conception of the "spiritual personality" in a mass age, and to argue that the good life would have to be pursued outside the realm of ordinary culture, a realm they believed was being corroded by an insidious process of "Americanization."[5]

This retreat into culture was to have terrible consequences

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[5] David L. Gross, "*Kultur* and Its Discontents," in *Essays on Culture and Society in Modern Germany*, eds. Gary D. Stark and Bede Karl Lackner (College Station, Texas: Texas A&M University Press, 1982), 75.

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 *re*presentation 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 the First World War 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 lies 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 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 which 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, are 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

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[6] Weber, *Economy and Society*, 7.

[7] Max Weber, *The Methodology of the Social Sciences*, trans. Edward A. Shils and Henry A. Finch (New York: Free Press, 1949), 90.

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 Chapter 1, I discussed the division in Weber's thought 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] Or as postmodernists might say, life's meaning is infinitely

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[8] *Ibid.*, 93. Emphasis in the original.

[9] *Ibid.*, 111.

interpretable.

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

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[10] Max Weber, "Politics as a Vocation," in *From Max Weber: Essays in Sociology*, trans. and eds. H.H. Gerth and C. Wright Mills (New York: Galaxy Books, 1958), 115.

[11] *Ibid.*

[12] Weber, "Science as a Vocation," 141.

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

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[13] *Ibid.*, 140.

[14] Wolfgang Mommsen, *Max Weber and German Politics: 1890-1920*, trans. Michael S. Steinberg (Chicago: University of Chicago Press, 1984), 381-89.

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 it is that, 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

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[15] Johnson, 110.

[16] Both Paul Johnson and Michael 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. Whatever the case may be, Weber clearly did not anticipate the way a charismatic figure might rely upon such powers to expand his scope of action though, in hindsight, such an expansion seems inevitable. See Johnson, *Modern Times*, 110; Mommsen, 378; and Michael Joseph Smith, *Realist Thought from Weber to Kissinger* (Baton Rouge, LA: Louisiana State University Press, 1986), 41.

metaphor of warring gods to describe the conflict between cultures and nations.[17] Absent 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.

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[17] Weber, "Science as a Vocation," 152.

[18] Quoted in Mommsen, 40.

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]

> Lack of distance *per se* is one of the deadly sins of every politician. It is one of those qualities the breeding of which will condemn the progeny of our intellectuals to political incapacity. For the problem is simply how can warm passion and a cool sense of proportion be forged together in one and the same soul? Politics is made with the head, not with other parts of the body or soul.[20]

Weber points to the *dharma* 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.[21] 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.[22] Christianity

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[19] Weber, "Politics as a Vocation," 115.

[20] *Ibid.*

[21] *Ibid.*, 124.

[22] Bismarck believed that acting to placate one's religious conscience rather than striving for the interests of state, which had its own laws apart from those of the Gospel, was tantamount to making room for "unfaithfulness" (Untreue) toward the state. See "Briefe Bismarck's an Gerlach, den 2 Mai 1857," in *Gedanken and Errinnerungen von Otto von Bismarck* (Stuttgart: Verlag der J.G. Gottaschen Buchhandlung, 1898), 157.

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.

Here we encounter the third characteristic of Weber's ideal politician. He will 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 the statesman to go beyond the ethics of ultimate ends in order to secure the survival of those whom he leads. In the modern age of bureaucratic disenchantment, when premodern ideals such as *dharma* of are no help, one must recognize 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.[23]

The exercise of power is always a contract with the devil to

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[23] Weber, "Politics as a Vocation," 123.

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 Year's 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 in this chapter. 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. To see why this is so, it is necessary to examine the thought of Mannheim himself.

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 Albert 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.[24] Nor could empiricism be of any assistance. As Charles Jones states: "Is it possible that all knowledge could be derived by an individual from experience of the world through the sense?--No, replies Mannheim, because the stream of raw sense data would not constitute meaningful knowledge until it was organized."[25] Naturally, it would be organized by different parties in different ways, a notion that serves as the basis of the sociology of knowledge. There were a multiplicity of 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."[26]

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

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[24] Karl Mannheim, 22.

[25] Charles Jones, "Carr, Mannheim, and a Post-positivist Science of International Relations" *Political Studies* XLV(1997), 233. See also Mannheim, 240.

[26] Mannheim, 173.

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.[27]

Whereas the utopian liberal attempts to impose what he believes ought to be through 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.

Carr relies 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.[28] 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

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[27] E.H. Carr, *The Twenty Years' Crisis: 1919-1939*. Harper Torchbook Edition (New York: Harper & Row, 1964), 11.

[28] *Ibid.*, 3. Carr relies upon *The Critique of Pure Reason* here.

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 rests largely upon the ability to back up one's position with force. Absent power, political reality dictates that the weaker must yield. "Yielding to threats of force is a normal part of the process of peaceful change."[29]

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.[30]

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[29] *Ibid.,* 218.

[30] *Ibid.,* 219.

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. 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 due to a confluence between morality and power. The moral element is seen in the "stock of common feeling between Great Britain and Ireland."[31] 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, they had already become cynical and aggressive.[32] Peace was, under these circumstances, nearly

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[31] *Ibid.*, 220.

[32] *Ibid.*, 221.

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."[33] 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. But he also believes humanistic inquiry has progressed; one can learn lessons from history.[34]

Carr remains unaware of the incommensurability of these

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[33] *Ibid.*, 222.

[34] E. H. Carr, *What is History?* (New York: Alfred A. Knopf, 1962), 84-86.

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."[35] 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."[36] 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

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[35] *Ibid.*, 152.

[36] *Ibid.*, 173.

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."

Raising the Jewish question, or what Leo Strauss referred to as the *argumentum ad Hitlerum*, may seem excessive until we consider further examples of wartime appeasement, collaboration, or moral failure, by others who hold postmodern epistemic positions. The flirtation of Heidegger with National Socialism is well known. Though he later renounced his allegiance to the Party, he never reconsidered how his understanding of *Dasein* (Being-in-the world) led him to conclude that Being was unfolding in concordance with Party expansion. One may also consider the de Man affair that took place in the late 1980s. Paul de Man, a well-known deconstructionist teaching at Yale, was embarrassed to have his anti-Semitic and collaborationist wartime journals discovered by *The Nation* magazine. In these articles, de Man, a Belgian, wrote of the "decency, justice, and humanity" of

the Nazis occupying France in 1941.[37] He urged his fellow Belgians to cooperate with the Nazis, writing "the necessity of action which is present in the form of immediate collaboration is obvious to every objective mind."[38] Many people during the war made mistakes; yet, what is disturbing about this case is the unwillingness of de Man to admit it. Jacques Derrida compounded this problem when he defended de Man through deconstructive methodology. He argued that the journals were inconclusive because all texts are inconclusive and that all of de Man's writings "carry within them a counterproposition."[39] Of course one could say the same thing about *Mein Kampf*. This is not to attempt to defend the absurd conclusion that all deconstructionists or poststructuralists would, in similar circumstances, do the same thing. Rather, these examples illustrate the difficulty of providing a firm theoretical foundation for humanist ethics in postmodern epistemology. When examining the crime of the Holocaust and the collaboration that made it possible, one would hope to find a more reasonable response than that provided by Derrida.

Carr is subject to these same failures. His uncertainty about the commonality of the human experience, and the tentative quality of his ethical assumptions, lead him to

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[37] Cited in Richard Wolin, *Labyrinths: Explorations in the Critical History of Ideas*(Amherst: University of Massachusetts Press, 1995), 213.

[38] *Ibid.*, 214.

[39] *Ibid.*, 215.

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 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."[40] 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.*"[41] 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

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[40] Carr, *The Twenty Years' Crisis*, p. 97.

[41] *Ibid.*, 93. Emphasis added.

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.[42]

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.[43]

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."[44] These compromises must be enacted by those who understand that "the ideal can never be institutionalised, nor the institution idealised."[45] 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

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[42] *Ibid.*, 159.

[43] Mannheim, while a refugee in Britain, was a central figure in the British Moot society which sought to organize support for social planning by appealing to Christian principles. Though Mannheim was Jewish, he saw Christianity as a means of giving systematic moral coherence to English support for the 1942 Beveridge Report that promoted the idea of planning. See Charles Jones, *The Intellectual Development of Karl Mannheim* (Cambridge: Cambridge University Press, 1985), 150f.

[44] Carr, *The Twenty Years' Crisis*, 100.

[45] *Ibid.*, 100.

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 the statesman can have no guidance from "normal science," to use Kuhn's terms. The statesman must be extra-paradigmatic and this requires not reason but imagination and intuitive insight. An unresolved issue in Carr's work is how easily the common man, who seems to play an important role in moral philosophizing for Carr, can follow the statesman into this realm.

Kissinger: Kulturpessimismus as Praxis

Associating Henry Kissinger with postmodernity might seem odd at first glance. Postmodern scholarship often is 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 actuality, 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, with 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 was itself a result of his own Kantian assumption that nature represented the determined and the un-free, whereas history represented the open vistas of human action in which freedom was vitally expressed by those who had the power to do so.

In his senior thesis, Kissinger finds Spengler and Toynbee unsatisfying as philosophers, but for opposite reasons. Though he accepted Spengler's pessimism about the encroachments of utility and materialism, he felt that Spengler was 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 was 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.[46] 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 Clemens 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

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[46] In his senior thesis, Kissinger writes, "An analysis of historical phenomena reveals but the inevitability inherent in completed action. Freedom, on the other hand, testifies to an act of self-transcendence which overcomes the inexorability of events by infusing them with its spirituality. The ultimate meaning of history--as of life--we can find only within ourselves. Henry Kissinger, "The Meaning of History: Reflections on Spengler, Toynbee and Kant." Undergraduate Honors Thesis (Harvard University, 1950), 22f; quoted in Peter W. Dickson, *Kissinger and the Meaning of History* (Cambridge: Cambridge University Press, 1978), 39.

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 multi-national empire in a period of nationalism."[47] In both cases, what Kissinger calls "manipulation and not creation" left problems unsolved, problems which would lead to ruin for both countries during the First World War. 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.[48]

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 puts it:

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[47] Henry Kissinger, *A World Restored: Metternich, Castlereagh and the Problems of Peace, 1812-1822*, Sentry Edition (Boston: Houghton Mifflin, 1973), 322.

[48] *Ibid.*, 322.

> [Kissinger] correctly perceived Kant's ultimate objective, which was to reconcile the materialistic philosophy implicit in the scientific interpretation of the world with the Protestant notion of inner spirituality. More importantly, he identified and sympathized with the philosopher's attempt to limit the claims of science to "make room for faith."[49]

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 the *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.

This point is important to note for it is central to this work as well. 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 postwar 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

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[49] Peter W. Dickson, *Kissinger and the Meaning of History* (Cambridge: Cambridge University Press, 1978), 34.

within his vision of a future world made up of republican states that guarantee the basic dignity of persons regardless of their particular characteristics. 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. Kissinger, who lost thirteen family members in the Holocaust, cannot 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 man to accept limits, the problem existentialists refer to as the refusal to recognize the "facticity" of life.[50] Nature, as history, always stands in ready opposition to overthrow the

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[50] On facticity in existential thought, see John Macquarrie, *Existentialism* (Harmondsworth, England: Pelican Books, 1973), 189-193. This rather cumbersome word is a translation of the German *Faktizität* and the French *facticité*.

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.

> I have said, what is after all empirically true, that most civilizations that we know anything about have eventually declined. All you have to do is travel around the world and look at the ruins of past cultures to confirm that fact. As a historian one has to be conscious of the possibility of tragedy. However, as a statesman, one has the duty to act as if one's country were immortal. . . .[51]

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. The statesman must create his own moral framework, one that in the final analysis cannot be subject to scrutiny by others. In his senior thesis, he 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.[52]

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,

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[51] Quoted in Dickson, 79.

[52] *Ibid.*, 74.

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 on both 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 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 ought 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."[53]

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 statesmen's intentions and the effectiveness of those actions in achieving legitimacy.[54] 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."[55]

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[53] Kissinger, 2.

[54] In *A World Restored*, Kissinger equates the actions of knaves, heroes, traitors, and statesmen who are distinguishable only by their motives, not their actions (20). On page 23, he uses the phrase "Whatever one may think of the morality of this step," in speaking of Metternich's hedging his bets between France and Russia. On page 82, he states, "Philosophers may quarrel with the moral stature of this policy . . . ," referring to Metternich's simulataneous alliance with France and with Russia.

[55] *Ibid.*, 11.

As Peter Dickson points out, this statement applies to Kissinger, not to Metternich.[56] 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."[57] 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.[58]

Because bureaucrats deal with the instrumental, they are not

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[56] Dickson, 26.

[57] Kissinger, 327.

[58] *Ibid.* Emphasis in the original.

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 statesmen 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."[59]

These limitations place an extraordinary burden upon the statesmen. 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.[60] Herein lies the tragedy of statesmanship. He must pursue his creative vision, knowing that he will be utterly

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[59] *Ibid.*, 328.

[60] Stephen R. Graubard, *Kissinger: Portrait of a Mind* (New York: W.W. Norton & Co., 1973), 276.

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.[61]

The traditions of men must be replaced by the guiding vision of the charismatic who shapes the horizons of the future. Only he can see beyond the present and anticipate what comes next, because he is able to competently shape history to conform to his 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 to even recognize the constant perils present in history much less 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 ordinary men 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

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[61] Kissinger, 329. Emphasis in the original.

statesmanship."[62]

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 statesman 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 in this chapter: 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

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[62] *Ibid.*, 332.

the Soviet Union and asked "Who lost China?" Kissinger believed that nations, including China, had objective, permanent interests that could not be simply 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.[63] The bombing of Cambodia, for example, and the CIA working group's decision--controlled by Kissinger[64]--to affect elections in Chile seem

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[63] Dana Ward, "Kissinger: A Psychohistory," in Dan Caldwell ed., *Henry Kissinger: His Personality and Policies* (Durham, NC: Duke University Press, 1983), 60.

[64] Walter Isaacson, *Kissinger: A Biography* (New York: Simon & Schuster, 1992), 290. Kissinger, along with the 40 Committee, a group of officals heading covert activities, decided to manipulate Chilean elections to prevent Salvador Allende, the Socialist candidate, from

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. Statesmen 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 correctly predict 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. Nixon was elected to extricate the US from Vietnam, and Kissinger ought to have seen that American involvement there was pointless (as had other realists). But his acceptance of legitimacy as a higher form of morality led him to push for an honorable withdrawal. 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

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becoming president of Chile. Under his authority, American intelligence officials were engaged in a number of operations to accomplish this objective. As Isaacson reports, Kissinger authorized the spending of $250,000 to bribe members of the Chilean Congress, who could refuse to seat Allende. After Allende was seated, Kissinger continued to support anti-Allende activities in Chile designed to destabilize the Chilean government (311). On the US involvement in Chile, Kissinger stated "I don't see why we have to let a country go Marxist just because its people are irresponsible" (290).

to engage in military action. It would be unwise, thought Kissinger to unilaterally withdraw 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. . . .[65]

This policy could never make sense to the American public who was being asked to make sacrifices for something that sounded terribly ethereal. Like Douglas MacArthur in Korea, Kissinger sought to end the war by expanding America's involvement rather than curtailing it. MacArthur was sent home; Kissinger was not.

Here we see the consequences of statesmen who must reconcile different visions of morality in the international sphere. Under Kissinger's direction, the US sought stability in Southeast Asia. In contrast, the North sought autonomy and greater regional influence according to their 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

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[65] Quoted in Walter Isaacson, *Kissinger: A Biography* (New York: Simon & Schuster, 1992), 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 (236f).

ordinary persons, he had to act in secret on their behalf.

Michael Smith, analyzing Kissinger's ethics, believes that Kissinger, by his own standards, failed as a statesman.[66] Kissinger once wrote that "the acid test of a policy . . . is its ability to obtain public support."[67] 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

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[66] Smith, 211.

[67] Kissinger, 326.

people will doom himself to sterility; witness Metternich."[68] 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 theory of international politics 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 presence of tragedy in human history and disturbed by the failure of scholars and policy-makers alike to acknowledge the tragic presence of evil among men.

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

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[68] *Ibid.*, 329.

intellectual role model.[69] As Christoph Frei's recent biography on Morgenthau shows, however, Nietzsche was *the* critical figure in his intellectual development.

> Immer wieder ist dabei zu fragen: Was beschäftigt ihn? Und: Gibt es klar bestimmbare äussere Beeinflussungen im Zuge der Artikulation seiner Gedenken? Dies wiederum führt zu der vielleicht aufregendsten Frage im Rahmen einer intellektuellen Biographie: Hat Morgenthau einen geistigen vater?
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> Um es vorwegzunehmen: die Antwort lautet "Ja". --Sein Name? Friedrich Nietzsche.[70]

The young Morgenthau, living in the perilous times of Weimar Germany, was attracted to Nietzsche's intellectual integrity. In his diary, Morgenthau referred to the philosopher as "the god of my youth."[71] 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,*

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[69] Hans. J. Morgenthau, "Fragment of an Intellectual Biography," in *Truth and Tragedy: A Tribute to Hans J. Morgenthau,* eds. Kenneth Thompson and Robert J. Meyers (Washington DC: New Republic Book Co., 1977), 7.

[70] Christoph Frei, *Hans J. Morgenthau: Ein intellektuelle Biographie* (Stuttgart: Paul Haupt Bern, 1994), 96. This reads, roughly, "Again and again, one is led to wonder: what fascinates him? And, are there clear, decisive, extraordinary influences in the course of the articulation of his memories? This, in turn, leads perhaps to the most exciting question in the framework of an intellectual biography: Does Morgenthau have a spiritual father? To get to the point, the answer is "yes."--His name? Friedrich Nietzsche" (my adaptation). On this page and the one following, Frei also argues that Morgenthau 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" (113).

[71] Quoted in Frei, 101.

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.
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> 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.[72]

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.[73]

Not far after this passage, we see Morgenthau reaching

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[72] Morgenthau, *Scientific Man*, 141.

[73] *Ibid.*, 141, 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 Douglas Hofstadter, "Heisenberg's Uncertainty Principle and the Many-Worlds Interpretation of Quantum Mechanics, chpater in *Metamagical Themas: Questing for the Essence of Mind and Pattern* (New York: Basic Books, 1985), 455-477.

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."[74] Appollonian 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."[75] 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."[76] 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

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[74] Morgenthau, *Scientific Man*, 145.

[75] *Ibid.*, 154.

[76] *Ibid.*, 155.

language of reason to justify itself.[77]

The creative statesman, however, requires some kind of data upon which he may 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."[78] 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 qualities in the statesman. Given the irrational origins of reason itself, the statesman can only do his best to make sense out of his 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."[79] 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 the statesman must prepare.[80] His 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

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[77] *Ibid.*, 155.

[78] *Ibid.*, 151.

[79] *Ibid.*, 221.

[80] Hans J. Morgenthau, *Truth and Power: Essays of a Decade, 1960-1970* (New York: Praeger, 1970), 256f.

states: "So liegt Morgenthau bei Nietzsche, um es dann später selbst zu sagen: 'Je constate simplement ce que je vois.' Denkursprünge eines Realisten."[81]

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 dominandi,* the will to power. All of politics relates to that basic motivation, which Morgenthau calls "a general quality of the human mind."[82] 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

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[81] Frei, 105f.

[82] Morgenthau, *Scientific Man,* 194.

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."[83] 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 man's ability to transcend himself 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."[84]

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

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[83] Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*. Revised by Kenneth Thompson. Brief Edition (New York: McGraw-Hill, 1985), 50.

[84] Morgenthau, *Scientific Man*, 221.

positions. . . ."[85] 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. . . ."[86] 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.[87]

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

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[85] *Ibid.*, 219.

[86] *Ibid.*, 205.

[87] *Ibid.*, 204.

evil forces which, as manifestations of the unconscious, determine the fate of man."[88] 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.[89] 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 a 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."[90] On the

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[88] *Ibid.*, 205.

[89] Morgenthau, *Politics Among Nations*, 239.

other, legitimacy, which is not to be confused with force, requires that statesmen 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."[91]

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's 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. . . ."[92] 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

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[90] *Ibid.*, 225.

[91] *Ibid.*, 225.

[92] Morgenthau, *Scientific Man*, 168.

state that choice involves "the inevitability of evil."[93] 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 vs. evil but rather "not being too evil."[94] 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."[95]

> 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.[96]

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

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[93] *Ibid.*, 190f.

[94] *Ibid.*, 192.

[95] *Ibid.*, 195.

[96] *Ibid.*, 196.

the evil of action carries with it the breach of the obligation to do one's duty."[97] 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."[98] 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. . . ."[99]

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

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[97] *Ibid.*, 201.

[98] *Ibid.*, 203.

[99] *Ibid.*, 221.

human," he states.[100]

> 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? If the historic systems of morality were not erected upon a common foundation of moral understanding and valuation, impervious to changing conditions of time and place, we could [not] understand any moral system but our own. . . . 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.[101]

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.[102]

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."[103] To some degree, he was surely right. As Allan Bloom points out, Americans had appropriated much of German thought without fully understanding its implications. When confronted with the tragic side of *Kulturpessimismus,* they were at a loss to comprehend it. The

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100 *Ibid.,* 249.

101 Cited in Russell, 157.

102 Morgenthau, *Politics Among Nations,* 228.

103 Quoted in Frei, *Hans J. Morgenthau,* 218.

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 the Second World War. 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 "scientistically-minded" reviewers. 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 asserted that "all nations stand under the judgment of God," but he also acknowledged that God's will is "inscrutable to the human mind." 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

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[104] Russell, *Hans J. Morgenthau and the Ethics of American Statecraft*, 169f.

[105] Quoted in Frei, 230.

[106] Quoted in Russell, 158.

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 of 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. Just indignation (*nemesis*),

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[107] Hans J. Morgenthau, *Scientific Man*, 220f.

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. (Kant writes: "Now a man's skill in choosing the means to his own greatest well-being may be called prudence in the most specific sense.")[108] The prudent man is not, then, the man of moral wisdom venerated by Aristotle; he is the Benthamite petty shopkeeper despised by Marx.[109]

It is unfair to draw too strong a link between Bentham's

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[108] Immanuel Kant, *Metaphysical Foundations of Morals*. Chap. in *The Philosophy of Kant: Immanuel Kant's Moral and Political Writings*, trans. Carl J. Friedrich (New York: Random House, 1949), 164; quoted in Thomas Spragens. *The Irony of Liberal Reason* (Chicago: University of Chicago Press, 1981), 243f.

[109] Spragens, *The Irony of Liberal Reason*, 243f.

prosaic utilitarianism with 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." 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 recognized 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 advocate 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 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 chiliasm, objecting to the way liberal theorists ignores 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. If liberalism's fate is that of Icarus, realism's is found in the despair of Sisyphus.

Covenantal thought provides a way out of this morass. As evidenced by its origins in Jewish thought, 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. 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 we now turn.

CHAPTER 5

COVENANTAL LIBERALISM: SOCIAL CAPITAL WITH MORAL PURPOSE

Previous chapters have outlined the deconstructive consequences for liberal theory. The original vision of liberal thought, however, 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 every human life, though it took centuries to bring those beliefs to bear in real political terms. 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 ignores the presence of evil. 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. The theory 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, prudence too easily becomes cleverness, a point made in the previous chapter. The formal and substantive elements of covenantal relationships provide prudence with its moral foundations.

This chapter deals with two primary issues. First, I address the covenantal qualities of Tocqueville's work and examine more recent scholarship on democratic practice that relies heavily on Tocquevillean arguments. I previously outlined the basic assumptions of the covenantal paradigm as a general theory of social interaction.[1] I now turn to works that deal more specifically with its political implications. Tocqueville's social theory, found in his analyses of the US and France in *Democracy in America* and *The Old Regime,* outlines many of the elements of a covenantal order. Though

[1] See Chapter 2, 32-37.

modern theories of covenant originated with other European thinkers, Tocqueville's work is part of a stream of thought that links covenant with modernity.

Second, I outline a more systematic model of the covenantal polity, in order to show the link between social capital as a domestic variable and the workings of international politics. Because liberal international theory relies upon assumptions drawn from domestic politics, it is necessary to show how these domestic concerns impact states at the international level. This connection is not obvious; many realists deny it can be made at all, holding that international politics remains a separate, autonomous sphere.[2] If liberal theory is correct, however, there should be evidence that liberal states are set apart in visible ways from those that are illiberal within the realm of international behavior, evidence that can be theoretically linked to peculiarly liberal attributes. Social capital, I argue, provides the basis for political and economic stability, both of which are necessary for the consolidation of liberal states. In turn, it is the expansion and consolidation of liberal states upon which liberal theory rests its hopes for the future of a covenantal global society.

Tocqueville as a Covenantal Thinker

Tocqueville's work contains many profoundly covenantal

[2] Kenneth Waltz's work is, of course, a prime example of this realist contention.

elements.[3] He recognized the growth of democracy, with its emphasis on ontic equality, as a powerful force of the future.[4] He understood the need for liberty in a democracy to be circumscribed by ethical constraints. He also recognized problems inherent within democratic regimes that could lead to their downfall. Like Nietzsche, he understood the dangers of mediocre egalitarianism that disdains achievement and diversity, *ressentiment*, and the despotism that was their end; yet, he did not turn to power or aristocratic radicalism to solve these problems. He did not believe in the inevitability of despotism, bureaucratic or otherwise. He sought to protect democracy from its enemies and, as Pierre Manent puts it, from its "excessive or immoderate friends."[5] Tocqueville's conception of the good society is, in fact, fundamentally covenantal in perspective.

Tocqueville's analysis of American democracy can be divided into his insights into American political culture and into American political institutions. The positive aspects of both--those that tend to facilitate sustainable democracy--are really not indigenous to America as a whole but only to New England. New England is contrasted with the Mid-Atlantic colonies and the South which have their origins in

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[3] On the covenantal qualities of Tocqueville's thought, see Barbara Allen, "Alexis de Tocqueville on the Covenantal Tradition of American Federal Democracy," *Publius* 28, No.2(Spring 1998), 1-23.

[4] Tocqueville, 12.

[5] Manent, 130.

commercialism or worse, in a slave economy.[6]

Tocqueville's analysis of these issues is important for two reasons. First, he provides insights, confirmed by more recent research, into the basis for sustainable domestic liberal life. Second, his analysis can be applied to the international level. His analysis shows how, in an increasingly interconnected world, states can cooperate to protect their interests *and* solve collective action problems without the help of an overarching global state.

Political Culture

Tocqueville believes there are three qualities of New England political culture that have either facilitated or maintained democracy in America: enlightened self-interest, or what he terms "self-interest rightly understood," the art of association that Americans have skillfully developed, and mores, especially as affected by religion. These qualities have prevented the rise of the individualism he finds so pernicious to a vibrant democratic polity.

Tocqueville describes the American variant of "self-interest rightly understood" as a kind of enlightened understanding of the benefits of cooperation. Collective action is a means of solving individual problems and sharing the costs of those solutions. Americans, he states, have made this principle into a general doctrine.

> In the United States there is hardly any talk of the beauty of virtue. But they maintain that virtue is useful and prove

[6] *Ibid.*, 50f.

> it every day. American moralists do not pretend that one must sacrifice himself for his fellows because it is a fine thing to do so. But they boldly assert that such sacrifice is as necessary for the man who makes it as for the beneficiaries. . . .
>
> They therefore do not raise objections to men pursuing their interests, but they do all they can to prove that it is in each man's interests to be good.[7]

One ought to note a very important distinction here. Tocqueville does not argue that Americans believe the good and their interests to be identical. There is certainly some utility to following one's interests, but utility does not wholly comprise the good. On the other hand, Americans do not see much virtue in a non-consequential good. The idea is foreign to them.

One ought not expect Americans to see virtue as being separate from consequences. From the beginning, Americans eschewed a classical view of virtue (one that held commercial interests in disdain) for one consistent with both biblical and modern doctrine. Hebrew tradition, in contrast to Greek, had always seen commerce as an integral part of the good life.[8] On this point, Weber was correct. Calvinism, as a renewal of Jewish modes of life in the church, did sanctify the most mundane of callings. As Thomas Pangle and others have forcefully argued, the American Founders, influenced by

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[7] Tocqueville, 525f.

[8] Michael Walzer, *Exodus and Revolution*, 105f. Walzer identifies this integration of the commercial and the spiritual as being present during the development of the Torah itself. He states, "In their minds (as in ours), the material and the ideal, the carnal and the spiritual are not so easily separated." Walzer also makes a direct connection between this Jewish understanding of labor as a holy calling, of the relationship between the ideal and the material, with the perspectives of English Puritans, the American Founders, and contemporary liberation theologians.

Locke, were more attracted to modern than classical republicanism.[9] *The Federalist Papers* reveal the fact that the modern republican polity was one in which commerce was necessary to, and consistent with, vibrant democratic republican life.

Yet, a problem remains with this understanding of virtue. Weber's critique of Protestant life is not of its origins *per se*, but rather of the effects of its secularization. The Puritan gives way to the bourgeois, the last man, who leaves behind the transcendental circumscriptions on his behavior and becomes solely motivated by interests. These interests become less and less "rightly understood" and lead directly to the problem of individualism. Tocqueville would certainly agree this is one possible outcome of interest orientation. But Tocqueville believes this possibility to have been avoided, at least for the time being, by Americans' peculiar capacity for association. He believes this to be the most important lesson he has to offer democratic societies.

> Among laws controlling human societies there is one more precise and clearer, it seems to me, than all the others. If men are to remain civilized or to become civilized, the art of association must develop and improve among them at the same speed as equality of conditions spreads.[10]

Associations, he believes, makes people into citizens. They are integral to self-government. If individualism is the greatest danger to freedom because of the way it invites

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[9] Thomas Pangle, *The Spirit of Modern Republicanism*. See esp. Chapter 9, "The New Meaning of the Active Virtues."

[10] Tocqueville, 517.

despotism, associations are the solution. And, if the pursuit of interests narrowly understood is what leads to individualism, then the cooperation of those within associations is critical to broadening the definitions of interests.

Tocqueville also believes that the mores of the American people, cultivated by religion, are a preventive to tyranny. He believes that, in the American experience, the spirit of religion and the spirit of democracy are in harmony.

> Freedom sees religion as the companion of its struggles and triumphs, the cradle of its infancy, and the divine source of its rights. Religion is considered as the guardian of its mores, and mores are regarded as the guarantee of the laws and pledge for the maintenance of freedom itself.[11]

This is a crucial point in developing a viable theory of liberal life insofar as mores--the habits or enculturation of behaviors--are the basis of culture itself. Any social theory of liberalism must show how and why it is that behaviors evolved consistent with, and amenable to, democratic life. For there have been innumerable circumstances in which religion and democracy have not been complementary. Tocqueville's answer lies in his analysis of the Puritan origins of American mores and the way these mores influenced social and political practice. His account is not unlike that given by Elazar in his discussion of the effects of covenantalism in America, a point to which I will return.

Tocqueville's analysis of New England shows how covenantal thought can influence political culture and

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[11] *Ibid.*, 47.

institutions of governance. If his analysis is correct, then covenantal thought may provide a means of avoiding the problems of liberal and realist theory addressed earlier. He shows that ethics and interests are not incommensurable. Based upon the implications of his model, states should benefit from pursuing their interests within ethical circumscriptions. At the same time, they can develop institutional habits of cooperation[12] that can lead to solutions to collective action problems that do not involve diabolical bargains or moral crusades, both of which involve dubious uses of power.

Social Capital Theory and Political Culture: Fukuyama and Putnam

One can rightly raise the question as to whether there is any evidence that--one hundred and sixty years after Tocqueville wrote--his theories remain plausible. There is a more recent line of interdisciplinary research that substantiates the importance and correctness of Tocqueville's concerns about political culture: social capital theory.

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[12] The "New Institutional " literature in comparative politics, public administration, management, and other fields attests to why this statement is more than just an idle anthropomorphism. Institutions create organizational cultures, habits and memory that circumscribe available choices made by individual actors in those institutions. Despite criticisms of this approach, methodological individualism is not sacrificed. New Institutionalists merely recognize the constraints decision-makers within particular contexts place upon themselves. See Edgar Schein, *Organizational Culture and Leadership* (San Fransisco, CA: Jossey-Bass, 1985), especially 1-22; James G. March and Johan P. Olsen, "The New Institutionalism: Organizational Factors in Political Life," *American Political Science Review* 78 (September 1984), 734-749; Donald D. Searing, "Roles, Rules, and Rationality in the New Institutionalism," *American Political Science Review* 85 (December 1991), 1239-1260.

Social capital is the foundation of political and economic effectiveness. It is a universal variable, and as such, fits well within the liberal framework. Yet, unlike late liberal theory, which emphasizes autonomous individuals, social capital describes communal interactions and beliefs. As a result, it can easily be applied to the international level. States can accrue or expend social capital, depending upon international behavior. The peace between liberal states, for example, can largely be attributed to the wealth of social capital between them.

Social capital is described by James Coleman, the scholar most responsible for its original development, in the following way:

> Social capital . . . comes about through changes in the relations among persons that facilitate action. If physical capital is wholly tangible, being embodied in observable material form, and human capital is less tangible, being embodied in the skills and knowledge acquired by an individual, social capital is less tangible yet, for it exists in the *relations* among persons. Just as physical capital and human capital facilitate productive activity, social capital does as well. For example, a group within which there is extensive trustworthiness and extensive trust is able to accomplish much more than a comparable group without that trustworthiness and trust.[13]

Relationships are primarily placed in moral terms as evidenced by the words "trust", and "trustworthiness." But this is not morality devoid of a circumstantial component; this is morality structured to accomplish particular goals of cooperation that lead to mutual benefits for all involved in the trust community. Indeed, the combination of social norm

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[13] James Coleman, "Social Capital in the Creation of Human Capital," *American Journal of Sociology* 94 Supplement (1988), S100f. Emphasis in the original.

theory and rational choice theory into one conceptual framework is social capital's greatest conceptual virtue.[14]

Social capital theorists provide theoretical and empirical grounding for Tocqueville's conception of self-interest rightly understood. In this section, I discuss two theorists who have written a great deal on the subject, both of whom also have much to say about international and comparative politics: Francis Fukuyama and Robert Putnam. Both rely heavily on Tocqueville's insights regarding the importance of associations in a democratic society. Their work also has great similarities to Elazar's covenantal theory.

Fukuyama on Social Capital

Chapter 2 discussed Fukuyama's concerns about "Anglo-Saxon" liberal theory which he associates with Hobbes and Locke. In his book, *Trust,* Fukuyama relies upon a social capital argument to deal with these concerns. Fukuyama defines social capital similarly to Coleman as "a capability that arises from the prevalence of trust in a society or in certain parts of it."[15] It is "created and transmitted through cultural mechanisms like religion, tradition, or historical

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[14] *Ibid.*, S98. Coleman believes social norm theory to be deficient because there is no explanation of agent motivation, "no engine of action" (S96). Economic or rational choice theory "flies in the face of empirical reality" (S96). It ignores the fact that rationality is severely bounded by social context.

[15] Fukuyama, *Trust,* 26.

habit."[16] He distinguishes social capital arrangements from contract in that contracts are understood to be interest-based relationships that, in the minds of economists, do not require a great deal of trust. Like Elazar, Fukuyama sees social capital relationships requiring more; they require "shared ethical values."[17]

The most important subset of social capital is what Fukuyama calls "spontaneous sociability," the tendency within a culture to "form new associations and to cooperate within the terms of reference they establish."[18] This tendency is bottom-up, not top-down, requiring initiative and motivation on the part of individuals who seek a common good through cooperation. This important point goes to the heart of the Tocquevillean thesis concerning association.

The economic consequences of spontaneous sociability are profound. Those societies which have a tendency to associate will flourish; those who do not will not. On its face, this supposition makes a great deal of sense. One would expect a greater degree of productivity if employees and employers were trustworthy, if everyone honored their agreements without having to resort to third-party (state) intervention, if companies could use capital to improve products rather than hiring attorneys or security guards who produce nothing. Obviously this is a relative, rather than absolute, argument.

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[16] *Ibid.*

[17] *Ibid.*, 26f.

[18] *Ibid.*, 27.

Societies must be compared with each other to see if the argument has empirical merit.

Fukuyama examines a number of countries to prove his point. The US, Germany, and Japan have first-world economies because they produced associations that led to extra-familial trust. In Japan, this was due to laws that secured the legal status of adopted children and the remnants of feudalism after the Meiji Revolution.[19] In Germany, it was largely due to the existence of guilds arising out of the early free cities.[20] In the US, spontaneous association occurred largely because of Protestant sectarianism.[21] In addition, he utilizes social capital as a method of analyzing economic activity in a number of Asian and European nations such as China,[22] France,[23] and Italy, to show why their economies have had great difficulty developing large corporations without state intervention. Fukuyama points to research done by Michel Crozier, Douglass North, and Robert Thomas, on the economic consequences of familial-based industry and a state-led economy.[24] Because of a lack of spontaneous associations, the state has been forced to step in to construct or maintain

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[19] *Ibid.*, 166f; 171-175.

[20] *Ibid.*, 245-249.

[21] *Ibid.*, 287-290.

[22] *Ibid.*, 69-95.

[23] *Ibid.*, 114.

[24] *Ibid.*, 118-122. Fukuyama cites one example mentioned by North and Thomas of historical state bureaucratic intervention that was typical: the regulations concerning the dyeing of cloth which ran to 317 articles.

large firms. Yet this has had appalling consequences for France's ability to develop a truly vibrant private sector.

Fukuyama's thesis is quite important. Understanding how it is that national economies flourish, or wither, provides insight into the relationship between variables used to explain the rise and sustainability of democracy. Most of the democratization literature argues that economic growth precedes democratic transitions. Economic growth serves as an independent variable, the source of which is itself not questioned. Yet, as Fukuyama argues, economic growth itself relies upon social capital, a point also made by Robert Putnam in his analysis of Italy.

Putnam on Social Capital

While Fukuyama makes a strong case for the importance of social capital, Robert Putnam's is stronger still. Putnam's study of Italy, discussed in *Making Democracy Work,* is a model of powerful social science research. He relies on interviews, survey data, and public records--rendered meaningful by factor analysis--that cover a period of more than twenty years. His model integrates social and historical contexts with a rational choice model, covering the social and economic elements of social capital theory. In addition, his study has some remarkable similarities to the accounts of Tocqueville and Elazar on the North-South divisions in US political culture. In many ways, *Making Democracy Work* is an empirical verification of the theoretical integrity of these

accounts.

Putnam divides modern Italy into two regions: the civic North and an interest-seeking and individualistic South. He raises the question central to this paper: how are collective action problems effectively solved in liberal societies? For the self-interested individual, might it not be rational to pursue one's own interest rather than that of one's neighbor or the community? How may communities, or in this case regions, avoid the nefarious arithmetic of rational action in pursuit of individualism of the sort Tocqueville is so concerned about?

From the data he collects, Putnam concludes that Italians in the North are civic-minded, engaged, and have a sense of broad-based enlightened self-interest. Southerners are more willing to leave politics to the professionals who are able to look after their interests and provide them with what Mancur Olson refers to as "selective incentives," direct favors in exchange for votes.[25] Far from being irrational in a rational actor model, the behavior he finds in the South becomes rationally justifiable when it is necessary for survival and where levels of trust are abysmally low.

One can then raise the question as to how this cultural division came about in Italy. Putnam shows that, in the Italian example, medieval northern Italians came together to form communal relationships for both protection and mutual

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[25] Putnam, 91-120. This section contains the heart of the statistical case Putnam makes to test his theory.

aid. In his account of northern Italian history, Putnam goes to great lengths to show that far from the 14th and 15th centuries being highly secularized, the period of communal development was in fact very religious.[26] He states: "Ecclesiastical authority in the communal republics was minimal, not because religiosity was replaced by secularism, but because church hierarchy was supplanted by lay associations." He goes on to say that this change was one of the elements that led to the development of "a powerful and unparalleled degree of civic commitment."[27]

The South suffered from less favorable circumstances. Its cities were ruled by Norman kings through an increasingly powerful bureaucratic apparatus which, as in Tocqueville's France, prevented the kind of political balancing act that occurred further north. Both state and church stood in a vertical relationship to the people of the South who found themselves ruled either by kings or priests.[28]

Putnam also shows in great detail that civic engagement preceded economic growth in the North. With the rise of industrialism, northern provinces where social capital flourished were able to form thriving corporations. The South was unable to do so without state intervention. As he writes, "[C]ivic traditions turn out to be a uniformly powerful predictor of present levels of socioeconomic development,

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[26] *Ibid.*, 127.

[27] *Ibid.*

[28] *Ibid.*, 130.

even when we hold constant earlier levels of development."[29]

This is a point of extreme importance, one that is justified in light of empirical democratization research. Scholars like Samuel Huntington, Adam Przeworski, and Seymour Martin Lipset have emphasized the role of economics as a necessary condition of stability. These scholars believe that stability can be closely correlated with specific threshold levels of per capital GDP. Huntington argues that for those nations with a per capita GDP of $3000, "coups are rarely attempted and almost never succeed."[30] Przeworski provides evidence that the likelihood of a democracy "dying" falls from 12% at a per capita GDP of less than $1000 to 1% at $4000-$6000.[31] Lipset shows that of low-income economies, 75% of states have authoritarian regimes, while no high end industrial economies do; they are all democratic.[32]

These analyses, however, treat economic growth as an independent variable. Fukuyama and Putnam, on the other hand, treat it as dependent. If economic growth is a necessary condition for stable democracy, and social capital is a prerequisite for vibrant economic growth, then the importance

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[29] Putnam, 157.

[30] Samuel Huntington, "Democracy for the Long Haul," in *Consolidating the Third Wave Democracies*, eds. Larry Diamond *et al* (Baltimore: Johns Hopkins University Press, 1997), 8.

[31] Adam Przeworski, Michael Alvarez, Jose Antonio, and Fernando Limongi, "What makes Democracies Endure?" in *Consolidating the Third Wave Democracies*, 296.

[32] Seymour Martin Lipset, Kyoung-Ryung Seong and John Charles Torres, "A Comparative Analysis of the Social Requisites of Democracy," *UNESCO* (1993), 157.

of social capital in consolidating democratic transitions is critical.

The belief in expansion and consolidation is central to liberal thought, whether of the covenantal or late modern variety. This follows from the chiliastic roots of liberalism in early covenantal religious thought which predicted that, despite trial and tribulation, there would be a secular trend toward expansion of the kingdom of the saints. This belief was secularized during the Enlightenment and transformed into the idea that liberal states would eventually prevail, a view seen in the works of Kant, Hegel, and, of course, Fukuyama.

Together, Putnam and Fukuyama make a strong case for social capital as a beneficent factor in solving collective action problems. The development of an organizational culture that can produce attitudes amenable to solving these problems occurs from the bottom up. Both scholars assert that historically, the variable that best explains whether social capital would arise or not is the presence or absence of hierarchy. The same is true at the international level. Their findings suggest that while coercive top-down solutions to global problems might have short-term benefits, in the long run, such an approach will prove counterproductive. As inefficient and frustrating as the present process of international agreement-making seems to be, the alternative of a world-state envisioned by some liberals and realists alike presents a specter of hierarchy not likely to engender an increase in levels of trust or community-building.

The Covenantal Commonwealth: Elazar on Political Culture

Elazar agrees with Putnam and Fukuyama that culture affects politics and institutions. Like Tocqueville before him, Elazar distinguishes two different projects that were at work in the American colonial founding, one commercial and the other devoted to a "commonwealth" concept. In the former:

> [T]he political order is conceived of as a marketplace in which the primary public relationships are products of bargaining among individuals and groups acting out of self-interest. In the second, the political order is conceived to be a commonwealth--a state in which the whole people have an undivided interest--in which the citizens cooperate in an effort to create and maintain the best government in order to implement certain shared moral principles.[33]

How much a given region or polity emphasizes one or the other of these poles will also determine how they solve the problems that inevitably arise out of the opposition of power and justice. Recall that these are, according to Elazar, the two foundational elements of politics.[34] It is not inconsequential to note that this same dichotomy is the animus behind much of the literature on international ethics. This is particularly true for realists, like those discussed in the previous chapter, who have spent much time contemplating what appears to them as an aporia, an unsolvable puzzle. Both in theory and in praxis, the way that interests and ethics are ordered will have a tremendous effect on how future international relations are constructed.

Elazar provides three categories of political culture

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[33] Daniel Elazar, *American Federalism: A View from the States*, 2nd Edition(New York: Harper & Row, 1972) 90f.

[34] *Ibid.*, 91.

that lead to specific modes of organizational behavior, each of which integrates interests and ethics in a distinctive way. He separates American political culture into three types reflecting the degree to which regions place value on the public good over interest-based market considerations. These three types mirror exactly Tocqueville's own divisions of American culture. They are denoted as individualistic, traditionalistic, and moralistic.[35] The distinctions Elazar makes are of extreme importance for this work because of their explanatory value at the international level. All of these cultures appear within the US, a liberal democratic state. They can also apply to democratic states in general.

Individualistic cultures are those in which the marketplace is used as a metaphor for good governance. "In its view, government is instituted for strictly utilitarian reasons, to handle those functions demanded by the people it is created to serve."[36] Government interventions into community affairs is to be very limited and autonomy is placed at a premium. In such a system, party loyalty is more important than the implementation of some notion of the public good. Politics is just a necessary evil. When one looks at the chart of American political cultures designed by Elazar, one finds that such commercially-oriented attitudes are found in the mid-Atlantic area at the founding and have spread West from there. This is hardly surprising since, as

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[35] *Ibid.*, 93.

[36] *Ibid.*, 94.

Tocqueville writes of those who settled this region.

> It was . . . gold-seekers who went to Virginia, men without wealth or standards whose restless turbulent temper endangered the infant colony and made its progress vacillating. . . . No noble thought or conception beyond gain presided over the foundation of the new settlements. The colony had hardly been established when slavery was introduced.[37]

At the international level, states engage in individualistic behavior when they engage in interest-seeking defined in the narrowest terms. This can, and does, include liberal states in periods of self-absorption, such as when protectionism prevails economically or when states fail to solve collective action problems adequately or in a timely fashion. Isolationism, both political and economic, is the international equivalent of pernicious individualism. However, one could reasonably argue that imperial colonialism also represented a form of individualism, with each nation grabbing territory in the so-called *terra nullius,* land that belonged to no one according to the criteria of modern states. Individualistic states will normally adhere to public international agreements, though occasionally they will violate those agreements, primarily due to conflicts with illiberal states.

The traditionalistic culture Elazar characterizes as "pre-commercial" in its attitudes, but in some ways it simply exacerbates all the negative qualities of the individualistic culture. This culture "functions to confine real political power to a relatively small and self-perpetuating group drawn

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[37] Tocqueville, 34f.

from an established elite who often 'inherit' their right to govern through family ties or social position.[38] The citizenry, in such a culture, makes few demands and plays little role in political decision-making at any level. In the patron-client relationships of the traditionalistic culture, however, no broad mass-based appeal is necessary. Interest takes on a whole new pernicious meaning; it is carried to its logical conclusion as a motivating factor.

At the international level, these states will be primarily illiberal or marginally democratic. Many transitional democracies might fall into this category, such as Russia, or some Latin American states. Their behavior is plagued by all the problems raised by a patron-client system. Regardless of their formal governing structure, they lack social capital and find it difficult to engage in trust relationships with other states. The utilization of international organizations or law will be to serve a narrow conceptions of interests. In this framework, law, domestic and international, is what critical legal theorists suppose: politics by another means.

Elazar's third political culture, the moralistic or commonwealth culture, is clearly his ideal model as a support for good governance. In the commonwealth culture, individualism is tempered by "a general commitment to utilizing communal--preferably non-governmental, but government if necessary-power to intervene into the sphere of

[38] Elazar, *American Federalism*, 99.

'private' activities when it is considered necessary to do so for the public good or the well-being of the community.[39] 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."[40]

In the commonwealth culture, politics is not seen as dirty or a necessary evil. Nor is political engagement a compact with the diabolical. Elazar characterizes the view of politics in the commonwealth as "healthy," an arena which is "every citizen's responsibility."[41] In America, Elazar found that commonwealth cultures arose in regions settled by the Puritans and spread West as descendants of these colonists moved to the Midwestern region of the country. Today's commonwealth states are found primarily in New England and the upper Midwest (Wisconsin and Minnesota, for example). States in this region are not known either for their conservatism or their political passivity. They have professional, responsible state governments, high levels of political participation, and a comparatively high level of solidarity with regards to the need to achieve public goods as a moral enterprise.

No one could accuse colonial New Englanders of being uninterested in commercial gain. Yet their pursuit of

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[39] *Ibid.*, 97.

[40] *Ibid.*, 96f.

[41] *Ibid.*, 101.

interests was carried out in such a way that both public and private goods were provided, and political institutions were maintained with a high degree of efficacy. Commonwealth as an ideal-type integrates interests and ethics so as to preserve both over the long run.

Examples of international level covenantal behavior are abundant. When states engage in cooperation to solve global problems ethically, they are one step closer to covenantal behavior. This can be seen in the means by which the US carried out its postwar policy in Europe and Japan. In both cases, the Marshall Plan and the reconstruction of Japan after 1947 represent classic cases in which the US integrated interests and ethics. It was clearly in its long-term interests to provide funds for the rebuilding of both regions. By doing so, the US created economic partners as well as creating a buffer against communism.

It was this principle that George Kennan had in mind when he penned the now-famous "X" article in Foreign Affairs. Kennan believed that by helping US allies to rebuild, they would not fall prey to the social and economic pathologies that made illiberalism such a temptation to poorer states. Unfortunately, his concept was misinterpreted by Truman as an argument for creating military commitments across the globe to fight the Soviet bloc, even in venues where fundamental interests were not at stake.

The Bretton Woods agreement, as I mentioned in a previous chapter, also serves as an example of the merging of

ethics and interests. The GATT, the IMF (until recently), and the World Bank not only worked to benefit global economic leaders but gave special consideration to developing nations. These nations were allowed to retain tariff barriers to protect their infant industries while their goods entered many developed nations tariff free. This assisted their development to the degree that they were willing to become a part of the global economy. Even after the end of the gold peg for international currencies, liberal states have, on occasion, successfully cooperated to provide currency stability, despite negative short-term consequences.

Along these same lines, the US has, until now, resisted the temptation to return to protectionist practices despite enormous merchandise trade deficits. When asked about this, leading members of both major US political parties make similar arguments, for example, about the US' $60 billion deficit with China. It is good for the US to trade because it reduces inflation and it keeps China on the road to economic development. As China develops, democratic pressures will only intensify. Thus, in the long-run, open trade is good for the US and for China despite short-term problems in the US balance-of-payments.

It is possible to find liberal states acting in the international arena within the confines of any of these three typologies. Consolidated liberal states, however, will normally act in individualistic or commonwealth modes. A truly stable liberal democracy, by its very nature, must have

already risen above the kind of patron-client relationships typical in the traditionalistic states.

One would expect that the most effective international institutions would be those created by and limited to liberal states themselves, states who have created what Robert Axelrod calls iterated patterns of trust among themselves.[42] Indeed, if one examines the examples of successful cooperation given above, they involve liberal states helping or defending one another, though there may be positive externalities for other states.

The clearest example of liberal cooperation is, however, the democratic peace predicted by Kant. The lack of military conflict among consolidated liberal states is the best evidence for the positive integration of interests and ethics in those states. Most importantly, this peace has not been enforced by a world state or international army. It has occurred, in fact, in spite of formal anarchy at the global level and realist contentions that regime type is irrelevant to global concerns.[43] This fact highlights the key link between domestic and international behavior. Organizational

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[42] See Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984).

[43] Despite his belief in the autonomy of international politics, Kissinger alluded to the importance of domestic political culture in his discussion of foreign policy. He stated, for example, that Napolean's bellicosity were a reflection of his domestic autocratic tendencies. In addition, he believed that the Soviets were so contentious in their foreign policy because they "had prevailed in a system that ruthlessly weeds out the timid and the scrupulous." Cited in Spencer R. Weart, *Never At War: Why Democracies Will Not Fight One Another* (New Haven: Yale University Press, 1998), 78.

culture creates domestic patterns of power application that are then transposed to the international level. In his exhaustive study of the democratic peace thesis, Spencer Weart states:

> Experiments in social psychology show us, and common sense tells us, that we cling to our ways of thinking. We repeat accustomed practices in new situations, unless emphatic experience convinces us that we must change. This fact suggests a key hypothesis: leaders will tend to act toward their foreign counterparts in the way they are accustomed to act toward rival domestic political leaders.[44]

Weart notes that this treatment is only afforded to those who are seen as worthy of trust or equal regard, meaning other liberal states. However, this explanation might also shed light on the pendulum swings in democratic foreign policy between passivity and imprudent vehemence. Some leaders, like Chamberlain, may have projected trust unworthily, assuming that illiberal regimes ought to also receive the same treatment as liberal ones. Weart's argument may also explain why in other circumstances, leaders may demonize other nations. In both cases, democratic leaders misapply international ethics in ways consistent with realist critiques. They either pretend there are no differences or no similarities between regime types. Either way, the results, ethically speaking, will be disastrous.

Regardless of the problems liberal states face in dealing with those that are illiberal, there is clearly a habituated tendency in the informal norms that have arisen between liberal states to keep the peace, a monumental

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[44] *Ibid.*, 15.

achievement given global history. Cooperation is not enough, however, to ensure the development of the sustainable integration of interests and ethics of the sort found in commonwealth cultures. There are limits to the influence of culture or informal norms. Covenants are more than just tacit agreements or relationships; they involve design. As such, the role of institutions in covenantal thought is of great importance.

Tocqueville and Elazar on Institutions

I have argued above that institutional arrangements and practices limit and constrain the choices available to actors within them. Nowhere is this more evident than in federal arrangements that are specifically designed to limit the power of political actors. The Founders specifically had this role in mind when they developed the Constitution of the US. In addition, they believed that there ought to be institutional constraints on the ability of executives to wage war and be engaged in dubious enterprises overseas. The US Constitution, Article I, section 8 provides that Congress shall declare war and have regulatory power over military support and spending. The same article limits the ability of Congress to provide money to the military for more than two years at a time. Article II, section 2 requires a president to get approval of two-thirds of the Senate to ratify treaties, limiting the ability of the executive to unilaterally entangle the US in various alliances. Though

Tocqueville did not speak specifically of these limitations, he was impressed by the general diffusion of administrative power in the US, a factor he believed to be singularly important in the preservation of liberty.

While Tocqueville was impressed with the political culture of New England, he also had a great deal to say about the institutional structure of American government. Two of his observations are of particular importance: the distinction between centralization of administration and government, and the benefits of federalism. Both of these qualities, he believes, contribute to the well-being of the American polity.

In his discussion of public administration at all levels in the US, Tocqueville distinguishes between centralization of administration and centralization of the government.

> Certain interests, such as enactment of general laws and the nation's relations with foreigners, are common to all parts of the nation.
>
> There are other interests of special concern to certain parts of the nation, such, for instance, as local enterprises.
>
> To concentrate all the former in the same place or under the same directing power is to establish what I call governmental centralization.
>
> To concentrate control of the latter in the same way is to establish what I call administrative centralization.[45]

Because of its federal system, the US has governmental but not administrative centralization. This is in contrast to France, which has both. The combination of the two, says Tocqueville, is dangerous and, in a democracy, a sure road to majoritarian despotism.[46]

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[45] Tocqueville, 87.

[46] *Ibid.*, 87f.

This observation is close in tone to that made by an important covenantal thinker, Abraham Kuyper. Kuyper, Prime Minister of the Netherlands from 1900 to 1905 and founder of the Free University of Amsterdam, developed a political theory based largely on covenantal premises. Unlike many other theorists, however, he had the opportunity to implement a political program based upon that theory. Kuyper advocated what he referred to as the ideal of "sphere sovereignty." There are a multiplicity of spheres of activity: families, private associations, government, universities, businesses, churches, etc. Each sphere has a relative degree of autonomy from the others, and each functions according to its own specific rules.[47] They do not stand in opposition to one another, said Kuyper, but they are to cooperate in pursuing larger public goals. What is remarkable about this characterization is the way the state is seen as merely another form of association, one that has no inherent supremacy except within its own limited sphere. Tocqueville uses similar terms to describe the limitation of the power of the national government. "It is true that the Union, as constituted in 1789, has only restricted [limited] sovereignty, but it was intended that within this sphere it should form one and the same people. Within this sphere it is

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[47] Abraham Kuyper, "Calvinism and Politics," in *Lectures on Calvinism: Six lectures Delivered at Princeton University, 1898 under the auspices of the L.P. Stone Foundation*. 12 May 1999 <http://www.kuyper.org/stone/Lecture3.html>, 96f.

sovereign."[48]

This observation leads Tocqueville to make an important point concerning the US Constitution. The ideal of sphere sovereignty is deliberate, constructed according to design. The US, he says, is not the first confederation in history. He rightly points out that Switzerland, the Netherlands, and the German Empire have a confederal system. What is unique about the US is that it is a mixture of confederacy and national government. Its inhabitants are citizens of both states and the national government. They have dual loyalties which, in Tocqueville's mind, is a benefit.

> Here the central power acts without intermediary on the governed, administering and judging them itself, as do national governments, but it only acts thus within a restricted circle. Clearly here we have not a federal government but an incomplete national government. Hence a form of government has been found which is neither precisely national nor federal; but things have halted there, and the new word to express this new thing does not yet exist.[49]

Tocqueville is right about the unique structure of the US federal relationship. However, his statement that the US is not properly federal is correct only if we conflate confederation with all federal forms of polity. But if we recall that the root of *federal* is *foedus,* the Latin translation for covenant, we find that there are a number of different covenantal forms of polity of which confederation is one form. Elazar lists eight different types of polities that fall within this category: union, consociation,

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[48] Tocqueville, 145.

[49] *Ibid.*, 157.

federation, federacy, condominium, confederation, league, and inter-jurisdictional functional authorities.[50]

Rather than discussing the differences, it makes more sense to examine the qualities which unite all of these regime types. Elazar provides us with a list of the central components of the covenantal or properly federal commonwealth. As we will see, these will provide us not only with an understanding of what is necessary for sustainable domestic political life, but for international politics as well, a point discussed in the following chapter.

The foundations of a covenantal or federal theory involve three overarching principles that integrate cultural and institutional elements: limitations on power through design, the exchange of natural for federal liberty, and a strong measure of realism. First, covenants are primarily designed as power-limiting arrangements. This is true at all levels and in all types of associations--e.g., family, political, private, public, etc. Power is limited by design, based on structural arrangements of consent. Elazar states, "The covenant idea has within it the seeds of modern constitutionalism in that it emphasizes the mutually accepted limitations on the power of all parties to it, a limitation not inherent but involving willed concessions."[51]

Parties willingly concede a portion of their own power

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[50] Daniel Elazar, *Covenant and Civil Society*, The Covenant Tradition in Politics Series, Volume IV (Brunswick NJ: Transaction Publishers, 1998), 232.

[51] Elazar, *Covenant and Commonwealth*, 3.

to the collective whole in order to accomplish a greater good, part of which is the limitation on power itself. Thus, the very founding of the covenantal polity is itself a public answer to a collective action problem. There is no hypothetical state of nature or tacit consent given by ancestors that is binding upon those in the present. Covenanting is a public act that requires public consent and a means of reaffirming consent through the political process. That reaffirmation may, in some sense, be tacitly given. For example, it may be exemplified by a lack of will to alter the basic constitutional design through the amendment process. Original consent, however, may never be tacit.

Normally, the cession of power to governing bodies is limited and separated both functionally and geographically, as is the case in Switzerland, Germany, and the US. There are an abundance of federal relationships between citizens and governments at all levels. This allows for further autonomy in choosing more specifically the role the state will play at each level within the absolute boundaries of the constitution. Some may choose more intervention, some less. Some may choose one means of accomplishing policy objectives while some may choose another. Because of the multiplicity of networks that arise in power-sharing arrangements, policy borrowing and institutional learning are maximized, as is the overall level of consensus, a fact both economics and information theory have begun to verify.[52]

[52] In economics, the need for multiple and decentralized sources of information has been long recognized, particularly by the Austrian

Second, in the process of engaging in this public act, there must be an understanding that individuals give up natural liberty for federal liberty. They must "live up to the terms of their covenants."[53] They accept limits not only on state power but on their own as well. Federal liberty is absolutely antithetical to individualistic autonomy and hierarchic coercion. Covenantal relationships emphasize obligations, out of which come rights. This answers the liberal dilemma characterized by Fukuyama as the problem of "perfect rights and imperfect duties."[54] In addition, sphere sovereignty requires that there can be no unitary public good or singular role to be played by any individual. There is no publicly defined singular virtue defined and enforced by the state in all spheres; rather there are virtues within spheres. Neither state, nor church, nor family, nor any other association contains a hegemonic power over the good institutionally.

The idea that, ultimately, no one institution is "in charge" is one of the most difficult aspects of the

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and Chicago schools of economists. Political science was slower to accede this point but see Charles Lindblom's *Politics and Markets: The World Political-Economic Systems* (New York: Basic Books, 1977), especially chapter 22. Lindblom recognized the inherent problems of managing information efficiently in a planned economy long before those problems had become obvious to western observers. More recently, chaos and information theory has made it clear that decentralization is a necessity for maximization of learning. For public administration and management implications of this, see L. Douglas Kiel, *Managing Chaos And Complexity In Government: A New Paradigm for Managing Change, Innovation, and Organizational Renewal* (San Francisco: Jossey-Bass Publishers, 1994).

[53] Elazar, *Covenant and Commonwealth*, 3.

[54] Fukuyama, *The End of History*, 322-327.

covenantal polity for people to accept. Weber's understanding of rational authority, and of the state holding the monopoly on legitimate violence, prevails. Even those within federal or covenantal cultures have difficulty conceptualizing an order in which there is no *ultimate* authority. The temptation to see the state not as an association but as an organic or hierarchical entity is powerful. The US has gone through periods in which it was fashionable to see power residing ultimately in the legislative body, as with Woodrow Wilson's *Congressional Government*, or in the executive, as was the case with the national security state of the Cold War period. Some might argue that, currently, the US is in a period of judicial supremacy in which the Supreme Court plays the role of hegemon or ultimate arbiter of conflict.

Covenantal polities require a federal concept of liberty precisely because this is the only way liberty of any kind can be sustained. A covenantal structure in which constituents of the polity turn from federal to natural liberty moves toward amoral anarchy. As the classical political theorists and the American Founders understood, this variety of anarchy inevitably devolves into hierarchical regimes of some kind. For this reason, federally constructed institutions will function only upon a foundation of federally minded constituents. Both culture and institutions are necessary, as Madison wrote in *Federalist 51*, one chapter in a profoundly covenantal document.

> But what is government itself but the greatest of all reflections on human nature? If men were angels, no

> government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.[55]

One also sees a strongly realist element in this passage which brings us to the third core component of covenantal theory. Arising as it does out of Jewish theopolitical thought, covenantal theory shares with international realism a sense of human tragedy and sin. Again, there are profoundly moral as well as prudential reasons for limiting power. This divides covenantal thought from either the hierarchical liberalism of late modernity and the "wartime Berlin" mentality of some communitarians who see a central role for the state in reinforcing a unitary understanding of civic virtue. Covenantal thought recognizes the inherent dangers of providing the state with overarching powers, even to accomplish a public good.

This recognition goes to the heart of Tocqueville's argument concerning centralization of administration. He recognized the annoyance caused by the lack of regularity in laws and ordinances in the US, in contrast to France. Even so, he understood that although the state could bring about a uniformity in the practices of citizens through social control, this would lead to the enervation of the

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[55] James Madison, "Federalist 51," 322.

population.[56] In addition, it would be all too easy for states to act aggressively in the name of some higher national (or international) good. Pointing out that the French Revolution was both republican and centralizing, Tocqueville states:

> This ambivalent character of the French Revolution was a fact of which the lovers of absolute power took great pains to make use. When you see them defending administrative centralization, do you think they were working in the interests of despotism? Not at all; they are defending one of the great conquests of the revolution. . . . In that way a man may retain popularity while being an enemy of the rights of the people; he may be the hidden servant of tyranny and the avowed lover of liberty.[57]

The realistic element of covenantal thought sees prudence, or *phronesis*, as a part of transcendent morality, not antithetical to it. This is, in fact, the most important link between domestic and international politics, the view that covenantal thought takes on the distribution of power. For it is the realism of covenantal thought that leads back to its first principle, that power must be limited and shared to be ethical. R.J. Rummel echoes this principle when he states that "Power kills and absolute power kills absolutely."[58] What covenantal thought intuited from the beginning, Rummel has thoroughly documented in his studies of international violence. Concentrated power is dangerous. Few, if any, liberals would contend that the checks on power found in domestic due process provisions must be overturned for purposes of securing some good; yet many seem to ignore the

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[56] Tocqueville, 91.

[57] *Ibid.*, 97.

[58] R.J. Rummel, *Death by Government* (New Brunswick, NJ: Transaction, 1994), 1.

need for such checks to exist in the ability of liberal states to use their power internationally. On this matter, covenantal thought sides with realists like Morgenthau who question the moral crusades of liberal states. Elazar, for example, states:

> Covenant as a theo-political concept is characterized by a very strong measure of realism. This recognition of the need to limit the exercise of power is one example of this realism. It also recognizes the distinction between those who are bound by the covenant and those who are not. At the same time it makes provisions for appropriate linkages between those so bound and others, granted of a different order, but designed to keep the peace in the world in the face of the realities of conflicting human interests, needs, and demands.[59]

Though covenantal thought is realistic, however, it is separated from international realism first by seeing prudence and morality as part of a whole. Politics does not mean, *in se*, engaging in the realm of the diabolical. It is not a necessary evil. It ought to be, and can be, a sanctified and holy calling that serves to secure public goods. One ought not choose the ethic of transcendence or the ethic of responsibility. As previous chapters show, doing so leads to profoundly immoral consequences. They are inextricable. Prudence without transcendence (as Weber uses that term) underestimates the ability of humans to strive for goals higher than mere survival, whatever the cost. Transcendence without the limitations of prudent restraint leads to moral blindness and unintended consequences. At its most foundational level, prudence attached to transcendence

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[59] Elazar, *Covenant and Commonwealth*, 4.

becomes a profoundly moral choice. Prudence comes from understanding limits, as realists have acknowledged; however, far from being tragic, the recognition of limits is the beginning of redemption. This is no less true in international affairs than it is in theology. Madison understood this well:

> This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may check on the other; that the private interest of every individual may be a sentinel over public rights. *These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State.*[60]

In addition to being grounded in these three principles, Elazar lists four primary attributes that all covenantal polities share. They will all be constitutional. They will be republican, in the sense that there is a recognition that rulers are "custodians of power responsible to the ruled." They will be federal in some broad sense, reflecting the belief that "political entities can be united into a common whole without losing their own integrity, by covenant." And there will be a balancing of powers that prevents power monopolies from arising.[61] This last characteristic again reveals the pervasive realism that runs through covenantal thought. The balance of power is not simply relevant for international relations; it is necessary for domestic

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[60] Madison, "Federalist 51," 322. Emphasis added.

[61] Daniel Elazar, *Covenant and Constitutionalism*, The Covenant Tradition in Politics Series, Volume III (Brunswick NJ: Transaction Publishers, 1998), 259.

politics as well, perhaps even more so.

To some degree, all liberal nations share in these characteristics as a matter of practice. Because liberal polities succeed by virtue of a meeting of both institutional and cultural qualities, by definition, stable liberal nations must limit and share power. Even the most hierarchical and bureaucratic liberal states meet this criterion. If nothing else, they must share power with spheres within civil society.

George Modelski's characteristics of global leaders, the Netherlands, the UK, and the US, are instructive here. Of these four characteristics--control of strategic space, open society, lead technologies, and willingness to solve global collective action problems--the last three are directly related to the covenantal structure. The *relative* emphasis on horizontal rather than hierarchical relationships in combination with an ability to cooperate at the national level produced an organizational culture capable of global leadership.

Having isolated these characteristics, it remains to be seen what ethical and epistemic conditions would be necessary to acquire and sustain them. Like Kant, we can attempt a "transcendental deduction," inquiring into the necessary conditions for maintaining a liberal, humane social order. If liberal states are to avoid fundamental contradictions that could potentially undermine their ability to flourish, the assumptions of liberal theory must be revised. The next

chapter examines how covenantal premises can provide liberal international thought with more stable foundations than those it currently possesses.

CHAPTER 6

COVENANTAL EPISTEMOLOGY AND INTERNATIONAL ETHICS

The previous chapter outlined some of the specific institutional requirements 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 moral and epistemic realism, terms to be explained further below. This further separates covenantal theory from late liberalism and the post-Kantian realism described in Chapter 4. Not only are prudence and morality synthesized in this theory for purposes of founding and structuring a domestic political order, 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. In addition, I discuss some policy consequences of this paradigm as well as structural characteristics of a covenantal world order. Finally, I examine the question of the transcendence of ethics in the covenantal paradigm.

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.

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 liberal and realist thinkers. What these thinkers have in common is a commitment to some form of relativistic, socially 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.[1]

I emphasize the word *potential* above because of the

[1] For example, one can separate the empirical sociological constructivism of Peter Berger or Alan Wolfe from the "totalizing discourse" of constructivism in works by Michel Foucault or Jacques Lacan.

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 most clearly in Kant's flawed epistemology. 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.[2]

This is a point recognized by a number of other perspectives as well. Critical rationalists like Habermas have long cited the need for a dispersal of information

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[2] The classic example, being, of course, Leninist state socialism, which never progressed beyond the bureaucratic-rational stage.

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, like 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 in it inherently implies certain ethical requirements.[6] As Alan Wolfe states:

> 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. Morality matters because we have reputations to protect, cooperative tasks to carry out,

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[3] Habermas, in fact, rejects two of Kant's critical beliefs that have bearing on this subject. First, Habermas rejects the gap between the intelligible and the empirical. Second, discourse ethics does not take Kant's monological approach in which individuals have only their internal consciousness to rely upon to test maxims of action; rather, Habermas argues that generalizations about interests result from "intersubjectively mounted *public discourse.*" See Jürgen Habermas, *Moral Consciousness and Communicative Action*, trans. Christian Lenhardt and Shierry Weber Nicholsen (Cambridge, MA: MIT Press, 1990), 203. Emphasis in the original.

[4] See Rorty, *Contingency, Irony, Solidarity* (Cambridge: Cambridge University Press, 1989), 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 all interaction to language games.

[5] Michel Merleau-Ponty, *The Phenomenology of Perception*, trans. C. Smith (New York: Humanities Press, 1962). On this point, see also Anthony Giddens, *The Constitution of Society: Outline of the Theory of Structuration* (Berkeley: University of California Press, 1984).

[6] However, one potential weakness in phenomenological theory lies in the somewhat implicit quality of its ethics.

legacies to leave, others to love, and careers to follow.[7]

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 has the benefit of seeing the noumenal and the phenomenal, to use Kantian terms, as unified 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. This, in turn, leads to lower levels of information being available to decision-makers which is both inefficacious and immoral.[8]

The epistemic realism[9] of covenantal theory also avoids

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[7] Wolfe, 215.

[8] See, for example, the introduction to Chapter Five on discursive warrants in Charles J. Fox and Hugh T. Miller, *Postmodern Public Administration* (Thousand Oaks, CA: Sage Publications, 1995). Warrants, as used here, have both utilitarian and moral value, summed up by the term "authentic discourse."

[9] Epistemic realism is the perspective that patterns of phenomenal interaction can be rationally perceived and coherently understood, that there can be reliable perception and synthesis of phenomena. It should not be conflated with objectivist foundationalism--the idea that first-order beliefs can be directly perceived through sensory data. David Brink writes in *Moral Realism and the Foundation of Ethics* (Cambridge: Cambridge University Press, 1989):

> First-order beliefs are about features of the world external to us; second-order beliefs, by contrast, are about our first-order beliefs, typically about the relationship between first-order beliefs and the world. Second-order beliefs include beliefs at various levels of generality about the nature and reliability of our belief-formation mechanisms (127).

the mistake of logical positivism, namely the verifiability criterion of meaning. This criterion assumes the irrelevance or non-existence of any phenomena that cannot be sensorially verified or that does not contain merely analytic reality (such as the tautology: a=a). Ethics cannot be founded upon this dubious basis.[10] 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."[11] 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

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Epistemic realism is coherentist, a view which holds that there must be an integrity between first and second-order beliefs, but that there is no ultimate *foundational* basis for first-order beliefs. They cannot be proven *per se*. Instead, coherentism makes claims about the reliability of data, about their credibility. *Credere*--Latin for "to believe"--involves trust at epistemic, social, and economic realms. Trust is at the heart of covenant. Yet it is not blind trust, but trust developed by practices leading to a reliable basis for further action. On the issue of epistemic realism and moral judgment, see John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1995); and Robert George, *Making Men Moral: Civil Liberties and Public Morality* (Oxford: Clarendon Press, 1993).

[10] 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. Science on this basis would never have produced the inverse-square law or relativity theory, which require a belief in the reality of non-empirical conceptualizations.

[11] Spragens, *The Irony of Liberal Reason*, 209.

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.

We have already seen this premise implied in Sandel's critique of Rawls. Sandel objects to the way Rawls brackets moral phenomena as being inaccessible to reason. He argues that, contrary to Rawls' objections, Rawls' own substantive positions about material justice could be (and Sandel believes should be) justified rationally.[12]

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, we ought not commit the genetic

[12] Sandel, 207.

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? MacIntyre's work suggests that it is. 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."[13] It is not far from this understanding of virtue to "self-interest rightly understood," for virtue, as conceived by MacIntyre, is a practice that occurs in social circumstances, in very particular contexts to accomplish particular ends. It involves close cooperation with others. For that reason, the practice of virtue requires *phronesis*, knowing which virtue to emphasize at which time. This can only be learned through

[13] MacIntyre, 191.

carefully cultivated experience. 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. *Phronesis*, as it appears in MacIntyre's work, involves relativity rather than relativism. MacIntyre's approach comes close to Morgenthau's orientation, especially when the latter discusses the "certain relativism in the relation between morality and foreign policy."[14] 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 diplomatic ethics 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."[15] The

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[14] Morgenthau, *Politics Among Nations*, 246.

[15] Alberto Coll, "Normative Prudence as a Tradition of Statecraft," in Joel Rosenthal ed., *Ethics and International Affairs: A Reader* (Washington D.C.: Georgetown University Press, 1995), 59.

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. . . ."[16] 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.[17] In some situations, there can be competing moral claims that 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

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16 *Ibid.*, 58.

17 Joseph S. Nye Jr., *Ethics and International Affairs,* An Occasional Paper by the Aspen Institute for Humanistic Studies (Wye Plantation, Maryland: Aspen Institute for Humanistic Studies, 1985), 6.

18 *Ibid.* Both of these devices are found in the rabbinical interpretations of Torah practice. The second is secured by procedural boundaries placed on deviations from the law, and the requirement that such deviations be justified publicly. The first device is found in the highest mitzvah, known as "pickuach nefesh," in which the preservation of life may require the setting aside of a commandment temporarily. Both of these elements cast further doubt on the interpretation of IR realists of biblical ethics as being absolute and inapplicable to the exigent circumstances of statecraft that may face political decision-makers.

which is at the core of moral reasoning and that is so vulnerable in the transition from the deontic to the consequentialist approach."[18]

The field of moral ecology is another example of a consequentialist ethical approach that does not fall into relativism. Like its counterpart in environmental science, moral ecology is rooted in epistemic and metaphysical realism, relying upon an assumption that carefully controlled empirical observation can lead to reliable results. One must strain credulity, for example, to apply social constructivism theory to the material consequences of toxic pollutants. In the same way, moral decisions have material and empirically discernible consequences. As is the case with Elazar's moralistic political culture, moral ecology theory posits a social ecosystem with fragile and often esoteric interrelationships between actors and environment. Additionally, the collective action dilemma is a central concern as it is in natural ecology.

Allan Hertzke has developed a parsimonious, nomological theory of moral ecology that sheds light on how consequence and right can be integrated.

> Both environmental analysts and cultural critics identify unrestrained individual freedom as a major source of disruption. Ironically, this diagnosis arises from within a rights-based liberal polity renowned for celebrating and protecting individual freedom. Yet this apparent paradox reveals an implicit Tocquevillean acknowledgment that within liberal societies the behavior of free persons can undermine the health of communities--whether biological or human. What links physical ecology and the moral realm, therefore, is an appreciation of interdependency that fosters greater concern

> for the common good and lesser stress on individual autonomy.[19]

This approach is a vast improvement on the contemporary liberal conception of autonomy or the idea of basing liberal ethics on the harm principle derived from Mill.[20] Or one could say that it raises the harm principle to encompass not self-interest but self-interest rightly understood, a conception of self-interest that is compatible with communal goods.

Hertzke believes that empirical social science can offer a rational means of investigating effects of particular practices on social, economic, and political life. There is no need to bracket any kind of language that contains moral language, comprehensive or otherwise.

> As a scholarly construct, therefore, the theory of moral ecology appears more concrete and more enduring than fleeting political phenomena. Moreover, it responds to the lament about the inability of social science to explain transformations. Just as biologists do not predict the direction of evolution, but have explanations for why it will evolve, moral ecologists would not presume to predict precisely how complex interactions would ramify, only that they will. Thus, the concept of moral ecology offers a more dynamic empirical construct than social and political theories that depend on regime stability *or a fragile epistemological framework.* Moral ecology, thus, may represent a merging of natural law and empirical science.[21]

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[19] Allan Hertzke, "The Theory of Moral Ecology," *The Review of Politics* 60 (Fall 1998), 631f.

[20] John Stuart Mill, "On Liberty," in *The Collected Works of John Stuart Mill,* vol. 18, ed. J.M. Robson (Toronto and London: University of Toronto Press, 1977), 223f. Mill defines his harm principle as follows: "That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant." But Mill, like Dahl, requires that decision-makers be mature before they are trusted with such liberty, which is not for those who could be "improved by free and equal discussion" (224). In addition, Mill believes that autonomous individuals ought to be free not only from state coercion, but the coercion of public opinion as well.

[21] Hertzke, 654. Emphasis added.

What policy-makers must do is to consider whether the liberal model can stand up to this kind of scrutiny. The dictum "do no harm" takes on new meaning in an ecological or public health perspective. Whatever the limitations on the exercise of communal power in liberal theory, liberal societies have had no trouble enacting regulations on all manner of private behaviors, drunken driving, seat belts, and now smoking, all of which have powerful secondary effects.

Premise 3: Liberalism must be teleological to be coherent.

One immediate objection to this premise is that teleology is inappropriate in any modern inquiry. Yet, when we examine the moral language used by most theorists of either international or domestic politics, it becomes apparent that there is an implicit theory of ends. In the case of Fukuyama's international thought, it is explicit. There is an end to history, both empirically and normatively; there is an evolution towards a specific goal within that history. A theory of international relations that posits no direction in history ignores empirical evidence to the contrary. In addition, the ideals set forth by international law and organizations clearly state the universal goals of justice and equity.

The belief in historical meaning and direction is another of those beliefs that defies sensory proofs; yet, it is necessary to make sense of all reformational or

revolutionary politics. While late liberal thought cannot incorporate this element of ends, it is critical to covenantal thought. For this reason, Michael Walzer states that the first covenantal order, that of the Jews leaving Egypt, is the "first description of revolutionary politics."[22] 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. . . ."[23] 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 the historical perspective of Christian thought, was critical to the development of liberal thought.[24] That perspective continues to be just as critical today, even in a secularized form, for sustaining a humane ethic in the international realm. Nowhere is this made clearer than in the 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 (as opposed to cyclical ones) in human history.

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[22] Walzer, *Exodus and Revolution,* 133.

[23] *Ibid.*

[24] Fukuyama. *The End of History,* 56.

There has been a good deal of empirical inquiry into the question of a separate peace by liberal states. Though there is some debate about how liberalism is to be precisely defined and operationalized, the evidence does point to the existence of an historically unique phenomenon. Never in history has a regime-type led to non-aggressive interstate relations. For this reason, as I have stated above, Michael Doyle believes that liberalism is the only international theory that can be truly called paradigmatic. Realism does not account for this unusual relationship between states. Balance of power theory makes little sense when applied to relationships between liberal states; and, as Doyle shows, even when applied to relations between all states, it must be converted, instead, into a balance of threats argument.[25] Regime type, not geography, determines the existence of threats.

The realist belief that war is a perennial quality of international life (short of the world state), regardless of regime type, is not consistent with empirical evidence. The threats to peace in the world currently come from the clash between hierarchical liberal and illiberal states, as well as violence between illiberal states of various kinds. Should all states become covenantal--dispersing power domestically, incorporating ethical and structural limits on the use of power into both domestic and foreign policy, recognizing limits on the efficacy of violence--there is a possibility

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[25] Doyle, *Ways of War and Peace*, 172-193.

that interstate war could become a thing of the past. While covenantal regimes cannot eradicate evil, their very structure, with its emphasis on consensus and democratizing the policy process, limits their ability to carry out aggressive wars.[26] Conflict would undoubtedly continue, economically and politically, as state behavior began to take on the characteristics of competing regions and parties within nations. Yet, non-military conflict, of whatever kind, is surely preferable to the bloodletting of the past.[27]

Despite Fukuyama's recent doubts about his original thesis,[28] he was largely correct that the dissemination of a *type* of liberalism would bring about an end to interstate war. And he was wholly correct in saying that any viable theory of that process had to be rooted in a universal history. As he points out, all universal histories, secular or sacred, posit an end to history of some kind. The affinity of secular realists for cyclical cosmologies (particularly

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[26] Note, for example, the foreign policies of two nations that incorporate such institutional limits on power: the US and Switzerland. Switzerland has no tradition of international imperialism, a fact which could be attributed to a limitation on resources. However, Schumpeter predicted correctly that despite the resources of the US, it would be the least imperialistic of the great powers. Although the US is certainly not without sin in this regard (see chapter 3), it has been less aggressive than other great powers, a fact which cannot be attributed to a lack of resources.

[27] I hold this to be true despite protests of some that the enslavement of workers by capitalists is every bit as barbarous and violent as anything perpetrated by the most martial of states.

[28] Francis Fukuyama, "Second Thoughts," *The National Interest* (Summer 1999), 16-33. While Fukuyama remains certain that the dissemination of liberalism will lead to the end of Hegelian human history, he adds a new thesis that new biotechnologies may blur the line of the human and non-human, leading to a new phase of non-Hegelian history.

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 in this paper, 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 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. Yet 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.

If the commonwealth or covenantal paradigm balances interests and moral goods, it makes sense to inquire about the substantive elements of those goods. In the international sphere, we do not have to look far, in as much as there are a plethora of documents that outline the basis for the global

moral order. With Aristotle, I would argue that one need not reconstruct ethics from the ground up but rather examine the ideals expressed by extant ethical formulations.

The four documents that make up the International Bill of Human Rights show how this is so. Though I have shown in Chapter 3 how these documents are inconsistent with late liberalism, all four can be reinterpreted and made consistent with two of the three elements of covenantal thought. They are primarily about limiting the power of states to engage in aggression towards their own citizens and towards other states. Second, they require a commitment to federal, rather than natural, liberty. Where these documents fail to be covenantal is in their unrealistic expectations of non-covenantal, illiberal states, a point that causes a great deal of trouble in practice, undermining their viability as real law.

The four documents that make up the International Bill of Human Rights cover a whole host of moral demands placed upon all nations. The UN Charter (1948), 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.[29] The Universal Declaration, for example, speaks of the

[29] For an excellent compilation of these documents that places them in historical perspective, see Micheline R. Ishay ed., *The Human Rights Reader: Major Political Writings, Essays, Speeches, and Documents from the Bible to the Present* (New York: Routledge, 1997). These documents

dignity of human beings, 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.

The *Covenant on Civil and Political Rights* is more expansive. Stating that rights derive from the inherent dignity of the human person, the Covenant 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.[30]

The *Covenant on Economic, Social and Cultural Rights* is more controversial because it includes the provision of positive rights, goods not considered rights by many liberal states. It protects equal rights of both genders to the enjoyment of all "economic, social and cultural rights."[31] It guarantees the right of everyone to choose their means of subsistence, fair and healthy working conditions, the right to join unions, social insurance, and special protections for the family which is defined as "the natural and fundamental group unit of society."[32]

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are also available online at the United Nations' web site, un.org, or at the University of Minnesota's Human Rights Library at www1.umn.edu/humanrts/instree/auob.htm.

30 Ishay, 424-432.

31 *Ibid.*, 433-440.

32 *Ibid.*, Article 10:1.

It is not possible or necessary to list here all of 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. They require nations, and the individuals within them, to adhere to federal liberty, not natural liberty. The fundamental maxim of international law is, appropriately, *pacta sunt servanda*. Nations ought to keep their covenants. To do so requires a covenantal perspective.

Charles Kegley and Gregory Raymond make this point in their empirical investigation into the role of trust in international peace. Their particular focus, alliance norms, is salient to this work because it highlights the role of social capital in keeping the peace. Note the covenantal quality of their language.

> Commitment is the adhesive of human interaction. Vows between husband and wife;contracts between buyer and seller; covenants between a deity and its people; pledges of allegiance between citizens and the state; and alliance

> treaties between nations exemplify this bond. The degree of obligation one feels toward the commitments made to others influences all social relationships.[33]

Kegley and Raymond argue that there is a correlation between the expectation of trustworthy behavior in alliances and international peace. Strong and *credible* alliances will be able to constrain state behavior in the international realm. A lack of credibility, on the other hand, can lead to a destabilization of state relations.[34]

> Peace, we conclude, is best preserved when there is a moderate amount of flexibility in alliance initiations and partner choices, when commitments are made judiciously and not left open-ended, and when promissory obligations are considered binding by prevailing international norms.[35]

The lesson to be learned here is that trust, as social capital, is as important for international relations as for domestic political economy. Prudent and reliable behavior leads to the development of informal norms of credibility between states, a form of international social capital. Collective action taken on the basis of that trust leads to the ability to solve other collective action problems, just as is the case in domestic social capital relations.

As I showed in Chapter 3, there are serious problems with making late liberal premises connect with a relativistic moral perspective. The unity of deontic ethics with relativistic epistemic assumptions wreaks havoc in thinking

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[33] Charles W. Kegley Jr. and Gregory A. Raymond, *When Trust Breaks Down: Alliance Norms and World Politics* (Columbia, South Carolina: University of South Carolina Press, 1990), 1.

[34] *Ibid.*

[35] *Ibid.*, 232.

about what constitutes a moral foreign policy. Expecting illiberal states to live up to their covenants may be unrealistic; expecting the same from liberal states relying on this dubious synthesis is just as unrealistic. The crusading spirit, the denial of normative and empirical limits, has always been dangerous. The loss of a rationale, of guiding theory, blinds those who hold power and causes them to respond to the exigencies of the moment with little thought of why they act or whether they should act. Again, at the domestic level, the value of limits on state violence and coercion are written into liberal law and are derived from the traditions that gave birth to liberal thought. The idea that preventing undue harm to the innocent should prevail in circumstances of uncertainty is a cherished principle that requires a belief, ironically, in both the capacity of humans to know the good and, concurrently, the limits of that knowledge. At the international level, however, few restrictions exist in reality. If international law is to develop similar protections to those found at the domestic level, a similar epistemic foundation is needed.

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

The third characteristic of covenantal thought, its pervasive realism, is not evident in much of the theory and practice of contemporary liberalism, a point made abundantly

clear in an earlier chapter. The liberal belief that evil is a result of evil systems, and that it can be eradicated by eradicating global anarchy, only leads one back to the problem of liberalism's moral blindness. 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. Many communitarians share this problem in that they emphasize civic virtue and do not question closely how, and by whom, values are to be allocated. Successful liberal polities have assumed that no one can be trusted with an overabundance of power, not even the most rational of liberal leaders.

The federal solution to political ethics is intimately caught up with this belief in the plenary quality of evil. It is because of evil and error that power must be limited. Only by doing so can the Weberian nightmare of rule by experts, of political *management*, even in liberal polities, be avoided. This is no less true at the international level.

In his *Perpetual Peace*, Kant makes this point very plain. The world government must be federal, he states. His term for this society of states is the *foedus pacificum*, which can be translated as a pacific covenant. Kant makes two important points here about this federation of states. First, he explains under what conditions it will be successful.

> **For if fortune directs that a powerful and enlightened people can make itself a republic, which by its nature must be inclined to perpetual peace, this gives a fulcrum to the federation with other states so that**

> they may adhere to it and thus secure freedom under the law of nations. By more and more such associations, the federation may be gradually extended.[36]

Kant's logic here is somewhat Madisonian. 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. In words that sounds much like an exhortation to federal liberty, Kant writes:

> For states in their relations to each other, there cannot be any reasonable way out of the lawless condition which entails only war except that they, like individual men, should give up their savage (lawless) freedom, adjust themselves to the constraints of public law, and thus establish a continuously growing state consisting of various nations (*civitas gentium*).[37]

Second, in contrast to many international thinkers, Kant does not believe in the construction of a supranational world-state. 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:

> The idea of international law presupposes the separate existence of many independent but neighboring states. Although this condition is itself a state of war (unless a federative union prevents the outbreak of hostilities), this is rationally preferable to the amalgamation of states under one superior power, as this would end in one universal monarchy and laws always lose in vigor what government gains in extent; hence a soulless despotism falls into anarchy after stifling the seeds of good.[38]

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[36] Kant, *Perpetual Peace*, 101.

[37] *Ibid.*, 101.

[38] *Ibid.*, 113.

In this age, a world-state would no doubt fall not into a soulless universal monarchy but rather a soulless and high-handed bureaucracy. There are already intimations of this in the structure of the UN. Prudence dictates that to entrust a solitary figure or organization with absolute power, even to do good, is not just imprudent but immoral.

The European Union and Liberal Hierarchy

Because of the difficulty of integrating relations between liberal and illiberal states on anything but a foundation of interests, successful liberal institutions will probably be transnational rather than international. The EU is a good example of this. Even given the fact that all EU members are liberal states, there have been a number of problems bringing about integration. Nevertheless, the future direction of the EU may be a harbinger of whether liberal institutions will evolve in a covenantal or hierarchical direction.

The EU marginally and imperfectly fulfills two of the three requirements for the covenantal order. Elazar calls the EU a "confederal system."[39] The liberty of nations and individuals within them is federal, oriented toward human rights and material justice under the guidance of the European Court of Justice and the European Convention on Human Rights. Yet, it is not at all clear that the rights approach taken by the EU will not run into the same

[39] Elazar, *Covenant and Civil Society*, 298.

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. This appears to fall in line with Tocqueville's France rather than the innovative energy of Modelski's global leaders. As George Soros puts it, "Brussels has become a bureaucrat's dream; its legalistic, ever more complicated structure is foreign to the spirit of an open society."[40] Like Tocqueville's France, there are too many bureaucrats. At a stage when duties are limited--but expanding--there are 20 commissioners, some of whom have very little to do. For example, the External Affairs division of the Commission is run by four different commissioners and four "directorates-general-units of the commission" who often collide with one another.[41] The budget commissioner, Erkki Liikanen, stated that the organizational culture of the Commission combined "French hierarchy, German Mitbestimmung, and Italian trade unions."[42] As integration continues and the responsibilities and staff of the Commission increase, one wonders, along with Soros, how open European society will be. Indeed, Robert Dahl, addressing the future of transnational

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[40] George Soros, "Can Europe Work? A Plan to Rescue the Union," *Foreign Affairs* 75(Sep.-Oct. 1996), 9.

[41] "The Big Squeeze: European Commission," *The Economist* 342(February 8, 1997), 55.

[42] *Ibid.*, 56.

democracy, voices similar concerns for the quality and quantity of representative government in Europe.[43] Dahl believes that initial widespread opposition to the Maastricht treaty actually served a positive role in reminding EU leaders about the need for representativeness in transnational institutions.

As to the third element of covenant, realism, that appears to be lacking in both domestic and foreign policy. Domestically (from a "European" context) critics from the left have already 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 is a must. 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 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. On this point, Europe's future, as envisioned by Jacques Delors, is Weberian rather than Tocquevillean. Delors was president of the Commission in 1990 when the provisions for what would become

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[43] Robert Dahl, "A Democratic Dilemma: System Effectiveness versus Citizen Participation," 109, No.1(1994), 23-34. See especially pages 32-34.

the Maastricht Treaty were being negotiated. Delors predicted that someday 80% of EU social and economic legislation would come from Brussels rather than being made in member states.[44] This is a recipe for hierarchical rather than the covenantal variety of liberalism.

With regard to foreign policy, I have already discussed the Kosovo campaign in a previous chapter. That is not an auspicious beginning for EU foreign affairs. In the long run, however, passivity rather than imprudent vehemence may be the primary problem Europe faces. Federal liberty involves the willingness to secure the blessing of liberty with sacrifice if necessary. Should hostilities between Russia and the West revive, Europe must be willing to overcome its fractious past and present a united front. They must not allow the expansion of illiberalism into Europe again. Here the interests of the EU and NATO intersect. But Europe must take the lead in its own region, something that, up until now, it has not been willing to do. The grand experiment of European unity may change direction for the better and serve as an example of how liberal states can deemphasize short-term interests in exchange for long-term goods.

From Federal to Hierarchical Liberal Foreign Policy: The Case of America

Kant's inability to integrate interests and consequentialism into a larger ethical theory distinguishes him from the

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[44] "The Big Squeeze," 55.

moralistic synthesis we see in covenantal thought. As I showed earlier, it ironically 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 who 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 who 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. 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 that 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 regards 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. On the question of human rights, Morgenthau writes:

> John Quincy Adams argued that it was not for the United States to impose its own principles of government upon the rest of mankind, but, rather, to attract the rest of mankind through the example of the United States. Indeed this has been the principle the United States has usually followed. The American Revolution, to quote Thomas Paine, "was not made for America alone, but for mankind"; nevertheless, American policy has been that those universal principles the United States had put into practice were not to be exported by fire and sword, but presented to the rest of the world through successful example.[45]

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

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[45] Morgenthau, *Politics Among Nations*, 247.

[46] See monarchical provisions in Deuteronomy 17. Prohibitions on standing armies are related to the provision in this passage on "increasing horses," as well as being behind the narrative of judgment by YHWH on the Davidic kingdom. In I Chronicles 21 of the Tanach, YHWH brings plague upon Israel in response to a government census clearly taken to assess the military capabilities of Israel. This was a violation of the spirit if not the letter of the prohibition on administrative centralization in the Torah. See also Walzer's comments on the decentralized nature of both the Jewish republic and the monarchy that followed it, and on the relationship between horses, chariots (that is to say, standing armies) and tyrannical government in Jewish thought. See Walzer, *Exodus and Revolution*, 127-129. In addition to the prohibition on multiplying horses, one finds a prohibition on multiplying wives (Deut. 17). This law was not simply designed to curb excessive polygamy but rather to avoid entangling alliances which were often secured by marriage.

perpetual peace.[47] One might also note the importance of citizen militias 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:

> Thus during the concluding decade of the Napoleanic Wars Jefferson's thought on international affairs was a

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[47] Kant, *Perpetual Peace*, 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, 161.

> reflection of the ever changing distribution of power in the world rather than of immutable principles. In 1806, he favored "an English ascendancy on the ocean" as being "safer for us than that of France". . . . However, in 1812, when Napolean was at the pinnacle of his power, Jefferson hoped for the restoration of the balance. . . . In 1814, again compelled by the logic of events, he came clearly out against Napolean and in favor of a balance of power which would leave the power of Napolean and of England limited, but intact.[49]

After this period, however, he returned to his abstract moralizing about moral principle.[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 Washington 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.

With the McKinley Administration and the Spanish-American War, the US entered a third policy phase in which moralism and power were combined. By now, the shift of power to Washington has been enhanced by the mobilization of resources during the Civil War and the Progressive's political response to the rise of US commercial power. This 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

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[49] Hans J. Morgenthau, *In Defense of the National Interest*, with an Introduction by Kenneth W. Thompson, Reprint Edition (New York: Alfred A. Knopf, 1982), 19f.

[50] *Ibid.*, 22.

which great powers were so susceptible during the imperial period. It was Woodrow Wilson, however, that combined moralism, *par excellence,* with war aims.

> The present period of history in which generally and, as it seems, permanently universal moral rules of conduct are replaced by particular ones claiming universality was ushered in by Woodrow Wilson's war "to make the world safe for democracy." It is not by accident and it has deep significance that those who shared Wilson's philosophy thought of that war as a "crusade" for democracy. The First World War, as seen from Wilson's perspective, has indeed this in common with the crusades of the Middle Ages--it 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 and institutions in conquered nations 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. To repeat the words of John Cotton:

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[51] Morgenthau, *Politics Among Nations,* 243.

[52] Elazar's position on Wilson is consistent with that of Morgenthau's. Whereas Morgenthau is concerned with the effects Wilsonianism had on foreign policy, 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, *Covenant and Constitutionalism,* 134.

> 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 they are taught of God or not, it seems reasonable to limit power for precisely this reason. The creation of a national hierarchy to accomplish good ends led to the national security state so abhorrent initially to those on the left and, more recently, on the right. To repeat Rummel's dictum, "Power kills; absolute power kills absolutely."[54] No regime, liberal or otherwise, given centralized power, can resist the temptation to use it. Only institutional obstacles to the use of power will prevent its devastating consequences.[55]

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[53] John Cotton, "Limitation of Government,"; quoted in Perry Miller and Thomas Johnson, *The Puritans* (New York: American Book Company, 1938), 212f.

[54] Rummel, *Death by Government*, 1.

[55] Paul Kennedy's work *The Rise and Fall of the Great Powers* speaks brilliantly to this issue. He documents the tendency among global leaders to centralize power and, then, to use that power to engage in dubious foreign military adventures. These foreign commitments, far from being economically beneficial, as Lenin thought, drained the treasuries of nations and reduced their power in the long run. The book provided, and continues to provide, a powerful argument for creating institutional obstacles to the centralization of administrations in regimes of any type.

Kennedy argues that the US must face the same decision that confronted other great powers. The US must solve global collective action problems while refraining from commitments that will create unsustainable burdens on its economy. The implication of the book was that the US ought not allow the Cold War and the national security state required to maintain US security to send the US to the ashbin of history. The ability of the US to reengineer itself, something that required decentralized decision-making, was critical to sustainability. See Kennedy, *The Rise and Fall of the Great Powers*, 539.

Abraham Lincoln: the Synthesis of Covenantal Theory and Practice

The covenantal model is entirely consistent with the first phase Morgenthau described. In the modern period, however, its virtues are not obvious to those whose policy-concerns are media-driven. Nor are they obvious to those solely concerned with rights seen apart from specific contexts rather than as arising out of the network of mutual obligations that make them possible. There is something agonizing about watching men commit evil deeds and continuing to limit one's response. No president has had to deal with this issue more than Abraham Lincoln. Lincoln's 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.[56]

Covenantal thought and hierarchy cannot coexist for long periods of time, and US political development was no

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56 Elazar, *Covenant and Constitutionalism,* 125.

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.[57] 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.

There is, in fact, no greater model of the self-limiting moral perspective of covenantal theory than Abraham Lincoln. This is true for two reasons. First, Lincoln rejected the contractual theory of American politics in favor of a covenantal model rooted in the Declaration as America's

defining covenantal document. Second, he understood the terrible price to pay 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.

There can be no question that Lincoln saw the Union in covenantal terms. Lincoln referred to the Union as a "regular marriage," placing it within the context of that other most covenantal of institutions: matrimony.[58] 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 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.[59] Separation cannot be legally justified on the basis of material breach by the offending

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[58] Cited in Elazar, *Covenant and Civil Society,* 252.

[59] On the antithetical relationship between slavery and covenant and covenant as a response to slavery, see Wildavsky, "Slavery: Passive People: Passive Leader." Chapter 1 in *The Nursing Father,* 27-61.

party, only by the injured party.[60] 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.

> In all of this Lincoln was a Whig, not only in his original political party and fundamental political leanings, but in the larger sense of Whiggism as this had developed in Anglo-American civilization since the seventeenth century. Like all Whigs, prudence was not relativism but movement toward moral goals by carefully weighing the opportunities, limits, and possibilities, by keeping one's eye on the main chance--those things which were critical to the success of the movement--and adjusting the pace of change so as to avoid threatening the political-social order beyond what it could bear. Whiggism in this sense was the antithesis of aggressive self-righteousness linked to some immediate cause which, no matter how legitimate, threatened the whole fabric of the enterprise.[61]

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

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[60] This was the case under common law until the development of no-fault divorce which altered the legal grounds of divorce by removing the requirement that material breach be shown. This had the effect of replacing a covenantal rationale with a contractual one.

[61] Elazar, *Covenant and Constitutionalism,* 131.

why, ultimately, his ethic and epistemology cannot meet. Nevertheless, Morgenthau's vision of ethics seems to be substantively guided more by Lincoln than by Nietzsche.[62] 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.

> I am approached with the most opposite opinions and advice, and that by religious men, who are equally certain that they represent the Divine will. I am sure that either the one or the other class is mistaken in that belief, and perhaps in some respects both. I hope it will not be irreverent for me to say that if it is probable that God would reveal his will to others, on a point so connected with my duty, it might be supposed that he would reveal it directly to me; for, unless I am more deceived in myself than I often am, it is my earnest desire to know the will of Providence in this matter. And if I can learn what it is I will do it! These are not, however, the days of miracles, and I suppose it will be granted that I am not to expect a direct revelation. I must study the plain physical facts of the case, ascertain what is possible and learn what appears to be wise and right.[63]

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

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[62] One has trouble, for example, imagining Lincoln, who agonized so much 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 certainly shared.

[63] Quoted in Morgenthau, *Politics Among Nations,* 249.

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.

The covenantal ideal in international relations has always been synonymous with the idea of creating a beacon, a city on a hill, a model towards which others are drawn by choice. To repeat a point made in an earlier chapter, there is no word in ancient Hebrew for "obey."[64] 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 stated:

> Wherever the standard of freedom and independence has been or shall be unfurled, there will be America's heart, her benedictions, and her prayers. But she goes not abroad in search of monsters to destroy. She is the well-wisher to the freedom and independence of all. She is the champion and vindicator only of her own. She will recommend the general cause by the countenance of her voice, and by the benignant sympathy of her example. She well knows that by . . . enlisting under other banners than her own, were they even the banners of foreign independence, she would involve herself beyond the power of extrication, in all the wars of interest and intrigue, of individual avarice, envy, and ambition, which assume the colors and usurp the standards of freedom. . . . She might become the dictatress of the world. She would no longer be the ruler of her own spirit.[65]

Given the power and scope of the current national security state, Adams' view seems prophetic.

The consequences of state centralization to achieve even beneficent political goals may have dangerous consequences

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[64] Elazar, *Covenant & Polity in Biblical Israel*, 70f.

[65] Quoted in Russell, 240f.

for internal domestic politics. The use of state power to exercise dominion is habit-forming. Over time, the accretions of power can remove the influence of civil society to the margins of political existence. Just as a vibrant civil society is necessary to preserve a commitment of citizens to interests beyond their own, so too is it necessary to prevent them from turning their backs on global problems. Isolationism is always a nefarious possibility at both levels of political life.

The Role of Civil Society in Covenantal Politics

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, NGO's, and IGO's, 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. The one variable, however, that crosses through both levels of analysis is civil society.

That great "discovery" of liberalism, civil society,

plays a central role in the covenantal society. If we recall that spheres of activity (political, social, familial, etc.) are sovereign within the confines of federal liberty, the importance of non-governmental associations becomes immediately apparent. This is no less true at the international level for two reasons. First, it is civil society that prevents the occurrence of the Weberian nightmare in liberal societies. Second, associations can play a critical role in world politics by 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.

> Indeed 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. Equally important was the impact which society's influence on western states had on international relations. . . . [T]he example of the peace movements in the West helped stimulate small, more courageous unofficial peace and human rights movements in eastern Europe, many of whose activists were to play a part in the East German and Czechoslovak revolutions of 1989.[66]

Indeed, international institutions like the Catholic Church served as a means of organizing social forces that peacefully (or violently in the case of Romania) overthrew eastern European regimes and are, in the post-Cold war period, centers for organizing civil society.

Weber believed that only a fresh infusion of the non-rational charismatic could prevent the total hegemony of bureaucratic-rationality. Because of the nature of his

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[66] Martin Shaw, "State Theory and the post-Cold War World" in *State and Society in International Relations*, eds. Michael Banks and Martin Shaw (New York: St. Martin's Press, 1991), 8.

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. This paper has reformulated Weber's position to show why this approach is incorrect. If social capital theory and other 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.

Yet such charisma does not only appear within 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 of which Adams spoke. The accountability provided by their observations contributes to the sustainability of liberal states and a movement toward liberalism by those that are illiberal.

In some sense, all of the research on social capital and the cultural underpinnings of successful democratic practice is premised upon a belief in the importance of a vibrant civil society. Liberal international theory has placed a great deal of hope in the emergence of a global civil society that can increase the networks between non-governmental organizations. Organizations like Freedom House, Voice of the

Martyrs, Amnesty International, and Greenpeace, examine state practices in liberal and illiberal states and point out acts that violate human decency. Because they have no coercive power, their legitimacy 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.

Just as states ought to do everything possible to encourage the propensity to associate within their own borders, liberal states ought to act in cooperation to encourage the development of NGO's that can function as a moral check on the power of all states. This, of course, means being willing to subject oneself to moral scrutiny by NGO's, something hierarchical organizations of any kind find difficult.

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.[67] The shift from the state as patriarch to the state as

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[67] The idea espoused by some IR liberals that the nation-state is no longer the central actor in 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, "A Democratic Dilemma: System

partner he claims is part of the overall move from statism to federalism. This is only consistent with the covenantal view of the state as one association among many.

> The implications of this paradigm shift are enormous. Whereas before, every state strove for self-sufficiency, homogeneity, and, with a few exceptions, concentration of authority and power in a single center, under the new paradigm all states have had to recognize their interdependence, heterogeneity, and the fact that their centers, if they ever existed, are no longer single centers but parts of a multicentered network that is becoming increasingly noncentralized, and that all of this is necessary in order to survive in the new world.[68]

As Elazar points out, there has been the increasing recognition that solutions to what seem to be insoluble problems--Northern Ireland, the Palestinian/Israeli Accords--will have to be, or have already been, federal in nature. Statist hierarchy is not a solution. 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."[69] Yet

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Effectiveness versus Citizen Participation," 33. Kegley cites the demise of the hard-shell notion of the nation-state as evidence for the normative and empirical superiority of liberalism. See Kegley, "The Neoliberal Challenge to Realist Theories," in *Controversies in International Relations Theory*, 11 of 1-24. James Rosenau believes that while many scholars have addressed the increase in the mobility of technology, information, and economic interdependence, few scholars have considered the political implications of these changes. See Rosenau, "Turbulent Change," in *International Relations Theory*, 447. Elazar, one could argue, is attempting to do just that, address the possibilities present in a period in which the nation-state finds itself limited by factors not under its complete control. On the difficulty of conceptualizing the role of the nation-state in the post-Cold War period, see Cox, "Demystifying the Nation-State," in *Nation or Integration*, 27-41.

[68] Elazar, *Covenant and Civil Society*, 293

[69] *Ibid.*, 291.

federal structuration is not enough. There can be no *brit shalom* (covenant of peace) without *hesed* (covenantal obligations rooted in love). As critical legal theorists point out, liberalism without a material base of justice is empty and self-contradictory. Covenant 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 or national interest. Civil society has an increasingly important role in defining those interests.

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 evil be reconciled at the international level? If covenant can provide some direction for the evolving shifts in international relations, it makes sense to examine these questions further.

Covenant as the End of History

At the close of this investigation, one might justifiably ask: What is the ultimate vision of the good world order? Elazar's vision is much more compelling on this issue than Fukuyama's. Elazar lists four aspects of the covenantal vision:

> **1. A society of individuals (people, families and communities) who are freely bound to each other and to the moral order by covenant; a covenant based on federal liberty that encourages them to maintain their diverse integrities**

> but does not confuse the legitimate search for individuality with the idea that they can follow their own stars without limit. Covenant implies law and law sets forth guidelines and limits.
>
> 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*.
>
> 4. Ultimately a world-wide covenant society of individuals, communities, and nations but not a world-state based on a single universal society.[70]

Unquestionably this vision is a distant one and will not be completed in the near future. It shares a great similarity to Kant's vision without all the problems of Kantian philosophy impeding its theoretical integrity. Covenantal thought does not require the separation between ethics and epistemology we find in Kant's thought. Another important distinction is that, while Kant believed nature would bring about a federated world through interest, the covenant paradigm recognizes that belief as a false hope. 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.[71] Institutional improvements founded upon shared values, even by those who seek to constitute the good civil order in good faith, are not automatic either.

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[70] Elazar, *Covenant and Civil Society*, 313.

[71] This is all the more true in the post-Darwinian period in which "nature" has taken on a whole new meaning.

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. Habituation is necessary because humility towards the "other," ethereal or ephemeral, must be a way of life in order for the search to begin and to become self-sustaining. Again, this brings us back to the important role of civil society in a covenantal polity. Nations have no moral traits; only people do. Diplomats, then, must be chosen and trained within a moral environment that causes them to understand their responsibilities from a properly moral perspective. There can be no existential or private morality among statesmen in the covenantal polity.

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 a ongoing project can never disappear.[72] His

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[72] Fukuyama, *The End of History*, 82-88.

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 persuasively that the permanence of law, domestic or international, is impossible to secure without transcendent moorings.[73] 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. Well's *Time Machine*, with its dark Nietzschean undertones. It is Weber's nightmare of the iron cage in which we imprison ourselves.

The Sources of the Transcendent

This project has not dealt in any length 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. This led to a discussion of what a viable political ethic must look like but not to the details or the sources of transcendence in that ethic. Yet, one can still examine this question of 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,

[73] Berman, 39.

permanent, and that despite ethical variation, there is a fundamental unity that allows us to make sense of those variations. One can turn to contemporary sociobiologists and comparative ethologists, as Fukuyama has recently done, to claim that moral sensibilities are part of our genetic makeup.[74] 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. Additionally, religion is a source of transcendence, historically understood as the most important source of specific mores and practices.

This paper has shown that previous approaches to constructing a rational ethic have continued to draw, consciously or unconsciously, from religious sources. Whether we examine the pietism of Kant and Weber, or the curiously consistent tendency of existentialists and poststructuralists to end up espousing a Marxian vision of the good, Nietzsche's interpretation of the modern humanistic ethic of rights and equality seems to be correct. They do have religious origins. But this does not explain whether religion is necessary to sustain the good society. Covenantal theory clearly arises from religious roots as does liberalism in general; yet this does not answer the question.

The analytic objective herein is not to answer this question definitively. Rather it is to propose that the

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[74] Fukuyama, *The Great Disruption: Human Nature and the Reconstitution of Social Order* (New York: The Free Press, 1999). See especially Chapters 10 and 11.

covenantal vision is the proper guide for constructing the good society that can, in turn, serve as a model for peoples in illiberal states who are burdened by hierarchy and oppression. Yet, to some degree, the question of transcendence is answered by examining the structure of the covenantal polity and the place it makes for transcendent aspirations of every kind.

The charismatic social element is found not in the state, as Weber had hoped, but in civil society. It is within the sovereign spheres themselves that we find creativity, and it is their *relative* autonomy that guarantees its continuance. This is no less true of religion. Both Tocqueville and Elazar see religion as a primary means of encouraging enlightened self-interest, civil associations, and the mores of a free people. Yet they both recognize the limits of religious institutions in a free society. Tocqueville points out that in the US, unlike Europe, there is no state church. The church is one association among many. This echoes Putnam's point about the role of the Catholic Church in northern Italy as opposed to the South. Because the church lacked political institutional power, its legitimacy came from moral suasion. It could not coerce; it could only reason, debate, and persuade. Tocqueville points out that the Catholic priests he spoke to in the US all agreed on one thing: the value of the separation of church and state.

> I know that, apart from influence proper to itself, religion can at times rely on the artificial strength of laws and the support of the material powers that direct society. There have been religions intimately linked to earthly

> governments, dominating men's souls both by terror and by faith; but when a religion makes such an alliance, I am not afraid to say that it makes the same mistake as any man might; it sacrifices the future for the present, and by gaining a power to which it has no claim, it risks its legitimate authority.[75]

This was precisely the truth that Jefferson had in mind when he penned his response to a query by the Danbury (Connecticut) Baptist Association. They had written the President a letter asking him to address the rumor that Congregationalism was to be made the national church. It was in this letter that he replied with his famous dictum concerning the importance of the "wall of separation" between church and state.

One need only look at the state of churches in Europe to see the consequences of having a state church. Again, Cotton's words reinforce the covenantal maxim concerning power. Churches are led by fallible men who will use whatever power they are given. Give them the power of the state apparatus and they will use it. Nor are the people likely to concern themselves with the maintenance of piety when it becomes the duty of the state to do so.

Tocqueville believes that states ought not err in the opposite direction, however, and attempt to eradicate or hinder the influence of religion. Indeed, the congruence between religion in America and liberty was one of the primary themes of his book. And herein lies a partial answer to the general question of transcendence. Just as the state

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[75] Tocqueville, 297.

cannot generate social capital, neither can it generate piety. In the covenantal society, the state can, on the other hand, act in partnership with associations in civil society to facilitate both. At a minimum, it should do harm to neither, for they are the lifeblood of the successful and responsive polity. It is not the function of the state to seek for transcendence; however, the state desperately needs support and guidance from, and accountability to, those for whom transcendence is critical.

In addition, statesmen will be guided by their own moral visions. The state is not an autonomic organization but one made up of men and women who themselves have an understanding of the good. In an open society, it is necessary to know what those values are and how they will function in application. This is the primary purpose of the electoral process. But once again, as Elazar's (and Putnam's) research on political culture shows, the state will only be as moral and responsive as the people who make it up. If voters are without a sense of the immutable and the eternal, they ought not to expect statesmen to have a vision greater than their own.

Conclusion: Covenantal Ethics and Foreign Policy

When traveling in the Israeli desert many years ago, I saw in the distance a number of pits dug into the sand, each with a small shoot planted in the middle. My guide explained that it only rains once or twice a year in the Negev. The pits allowed enough water to collect for one tree to survive

one year. There were thousands of these trees planted on the road outside of Beersheba. I have not been back since then, but I can only imagine how the deserts must have been transformed by this project, and how they will continue to be changed in the years to come. For fifty years, in this restoration of the first covenanted nation, the Israelis have been creating an oasis in the desert, agriculturally, economically, and politically. Despite its mistakes, and there have been many, it remains the only democratic nation in the region, and the only one concerned to any degree with the rights of its citizens. Its openness allows the world to see its errors, something not as visible in the surrounding nations with their organic and hierarchical state structures.

Elazar describes the covenantal polity as an oasis as well. 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 and 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. Because liberals and realists share common epistemic assumptions concerning the unknowability of the good, their ethical positions often are founded upon

existential assertion, coercion, or both.

The commonwealth described by Elazar is founded upon vastly different premises. Whatever its intellectual origins, its social origins are found in Jerusalem rather than Athens. Unlike other classical cultures--Greek, Hindu, and Roman--Jewish culture never disdained commerce or labor of any kind. There has never been a strong Jewish monastic movement. Unlike many Athenian intellectuals, Hindu Brahmans, or monastic priests, rabbis taught and labored simultaneously. In addition, the Tanach is rife with consequentialist prescriptions. Yet they can hardly be described as lacking in transcendence. The fundamental premise of the Sinai covenant was "walk in goodness and you will be blessed spiritually and materially." Individual interests were strongly circumscribed, however, 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 15th 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 international 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. As in the early period of American history, they would recognize the benefits of being slow to anger and of remaining militarily uninvolved in matters that do not affect their direct interests. 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 regards to doing good, to being concerned with human rights, with material provision, 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.[76]

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 lies in the ability to persuade peoples in hierarchical states, peacefully but

[76] 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." *Whose Keeper,* 261.

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 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:

> In sum, victors in search of a durable peace settlement should apply the Golden Rule to diplomacy, treating the vanquished the way they would wish themselves to be treated were they in the same position. 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. Victors who couple firmness regarding their own interests with fairness towards the interests of others encourage defeated powers to work within the postwar system.[77]

Even this may be a little pessimistic. It is difficult to imagine more ruthless enemies than war-time Germany and Japan, yet Allied policy (save that of the Soviets) followed this moral prescription quite well. The rebuilding of Germany and Japan by the US after the war, and the use of American resources to provide democratic institutions where possible, is an example of self-interest rightly understood in international politics. Both America's interests (broadly conceived) as well as a public international good were served by these acts. By contrast, trying to win over the hearts and

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[77] Kegley and Raymond, *How Nations Make Peace*, 239.

minds of Vietnamese citizens, as American soldiers burned their villages in a war that was not in American interests, brought ignominy, debt, shame, and corruption back upon our own heads. Trade embargoes or military action against nations that are actively engaged in expansionism, or who threaten the open flow of goods and information, may make sense. Embargoes upon nations like Cuba, who, in the post-Cold War period, cannot possibly threaten the US 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 (and given the organizational culture of the UN at present, perhaps probable) but not inevitable. Unlike other regime types, people in liberal states do have a greater capacity to examine their practices in order to improve them. This is the rationale behind Modelski's observation that party systems and openness are key characteristics of all leading global powers. Both facilitate the self-examination critical to leadership. Current theories of management and organizational behavior confirm this.[78] Systems that cannot correct flawed practices, or deal with changing environments, wither and die. 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 much of realist 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.

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[78] On a range of recent organizational theories that have stressed the need for openness and critical self-examination of practices, see Jay M. Shafritz and J. Steven Ott eds., *Classics of Organization Theory* (Fort Worth: Harcourt Brace, 1996), 485-493.

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 helps make the iron cage possible. 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.

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