Part I - Discourses within Philosophy as a Basis for the Examination of War
Chapter 1 – Introduction to the Forms of Moral Reasoning Used in this Thesis

War is, for most people, the big exception. It is generally accepted that the deliberate taking of human life is, more than any other action, utterly wrong. Insofar as there is a moral consensus within our culture, and beyond it, its most deep-rooted feature is the recognition of the wrongness of killing another human being. When it comes to the killing of thousands and even millions of people in war, paradoxically however, this is widely accepted as a necessary and inevitable part of our way of life. Very few people actually glory in slaughter; deaths in war, even enemy deaths, are acknowledged by most as a tragic loss. Nevertheless, for most people it is beyond question that nations have to have the option of pursuing their interests or defending themselves by war if necessary, with the recognition that this will undoubtedly involve killing, usually on a massive scale; and those who perpetrate the killing are treated by most of their fellow countrymen not as moral outcasts but as heroes.

Most people accept this anomaly, although not everyone does. At the other extreme there are those who, because they see killing as the ultimate wrong, regard war as entirely unacceptable. For them, this is as obvious as killing in war is regarded as necessary by the first group. Between these two positions are those who feel the force of the pacifists’ rejection of war, but who also see no alternative to war in certain extreme situations, and who are therefore morally torn. War is therefore one of the most deeply divisive of moral problems. Of course there are other moral questions, and especially questions of life and death, over which people disagree deeply - issues such as abortion, euthanasia and capital punishment. In these cases, however, the consensus against the taking of life more or less dominates the argument, and the debate is about whether occasional exceptions are permissible in extreme cases, or indeed whether the possible exceptions are really cases of ‘taking life’ at all. The divisions on war and peace seem to go much deeper, and the opposed positions are much farther apart.

Philosophically, the extent of the dilemmas might seem to support those who say that there are no right or wrong answers to moral questions. In the end, so these philosophers maintain, moral argument breaks down, and reason alone cannot resolve the disagreement. We reach the point where we can only say ‘Well, that’s your attitude, and this is mine’. There is no further
reason which either of us could give to persuade the other. According to this philosophical view, we cannot say that either of us is clearly right or wrong. We can only agree to differ.

In this thesis I want to explore the dilemmas of war and peace both in their own right, and as examples of philosophical questions about the scope of moral reasoning. In this first chapter, I shall sketch what I take to be a plausible general theory of moral reasoning. In subsequent chapters I shall look at the specific issues of war and peace in the light of this theory, and I shall then, in a later chapter, return to the general level and to the questions of how far moral reasoning can take us and whether it breaks down in the end.

There is one point of terminology which I want to clarify. I shall use the terms ‘moral’ and ‘ethical’ interchangeably to refer to fundamental practical questions about how we ought to live. I want to resist the over-narrow use to which the word ‘moral’ is often put. ‘Moral issues’ are often thought of as concerning only the conduct of individuals, as distinct from questions of collective action and political choice. I shall not use the word in this way. I shall treat the question ‘Should this country go to war?’ as no less a moral question than the question ‘Should I, as an individual, participate in my country’s war?’ The word ‘moral’ also suggests a negative point of view. ‘Morality’ is thought of as a set of prohibitions, and when people and their actions are assessed from a moral point of view the primary term of appraisal is thought to be the negative term ‘immoral’. These individualist and negative emphases lead to a focus on feelings of guilt as the way in which people reveal their possession of a moral conscience. Thirdly, insofar as ‘morality’ is thought to have a positive side, this is typically identified with behaviour that is altruistic, unselfish and even self-sacrificing. The ‘morally good’ person is thought of as one who performs acts of kindness and consideration. That of course is one possible view, but if we make it true by definition, we are again using the word ‘moral’ in a restrictively narrow way. Serious questions of right and wrong cannot be satisfactorily solved merely by a definition of the word ‘moral’. It will be more useful to understand the word in such a way that it is an open question whether, and to what extent, it is morally desirable for us to act altruistically. The moral issues with which I am concerned, then, are moral issues in a broad sense. These are less commonly referred to as ethical issues; they are fundamental questions about how we ought to live and what we ought to do.
Subjectivism and Objectivism

Let us now look more closely at the idea that there are no correct or incorrect answers to moral dilemmas, and hence no rational basis for moral beliefs. Why might this be thought to be the case? What initially inclines people to this view is the existence of deep disagreements about questions of right and wrong. The depth of the disagreement about whether wars can ever be justified is one example. The opposing views seem so far apart, and seem to have so little in common; if the right answer could be arrived at by rational thought, how could different groups of people have arrived at such radically different conclusions? Perhaps, then, the difference between them is really a difference between two contrasting emotional stances, and in that case neither position can be said to be correct or incorrect.

It is not enough, however, just to point to the existence of moral disagreements, even recalcitrant disagreements. We have to ask why they are recalcitrant. The fact that people disagree quite fundamentally does not rule out the possibility that one side is right and the other is wrong. Compare the example of the disagreement between geocentric and heliocentric theories of the planetary system, or the disagreement between the flat-earth theory and the theory that the earth is spherical. At one time these were recalcitrant disagreements because of the absence of decisive evidence. This did not mean that there was no right answer, it merely meant that no one could say with confidence what the right answer was. Before anyone had circumnavigated the earth, or looked at it from space, the flat-earth theory and the spherical-earth theory might both have been plausible. With better evidence we now know that the earth is roughly spherical, and likewise we know that the sun is at the centre of the planetary system. To say that we ‘know’ this does not mean that disagreement is at an end. There may still be people - perhaps religious fundamentalists - who believe the opposite. If that is so, it does not show that there is no right answer, it simply shows that one group is mistaken.

If it is to be maintained that there is no rational way of establishing moral beliefs, then, it is not enough just to point to the existence of radical moral disagreements. What must also be claimed is that there is no way of resolving such disagreements. This is what some philosophers have indeed claimed. Bertrand Russell, for instance, was during the First World War a committed and active campaigner for peace and against the war policies of the British government, and he was imprisoned for his work for the No-Conscription Fellowship, but as a
philosopher he maintained that his position, like that of his opponents, was in the end ‘the outcome of feeling rather than of thought’. ‘The fundamental facts in this as in all ethical questions’, he believed, ‘are feelings; all that thought can do is to clarify and harmonise the expression of those feelings’. In support of this philosophical claim he argued that no rational way of resolving fundamental moral disagreements can be found.

If our views as to what ought to be done were to be truly rational, we ought to have a rational way of ascertaining what things are such as ought to exist on their own account, and by what means such things are to be brought into existence. On the first point, no argument is possible. There can be nothing beyond an appeal to individual tastes. If, for example, one person thinks vindictive punishment desirable in itself, apart from any reformatory or deterrent effects, while another person thinks it undesirable in itself, it is impossible to bring any arguments in support of either side.

If people agree about what things they regard as desirable for their own sake, says Russell, rational argument is then possible about how to bring those things into existence. Those who agreed that vindictive punishment is a good thing, for example, could then engage in rational argument about whether that end is effectively served by England’s making war against Germany. But between those who disagree as to whether vindictive punishment is a good thing at all, no rational argument is possible.

The alleged absence of any rational way of resolving fundamental moral disagreements is, then, one reason for thinking that moral views ultimately rest on feeling rather than reason. A second argument which has been put forward by some philosophers for that conclusion is that moral views are thought to have a special connection with action. To regard something as right or wrong, good or bad, is to be disposed to act accordingly. Someone who professed to regard it as right to act in a certain way, but made no effort whatever to do so, would properly be described as hypocritical; we would say of him that ‘He doesn’t really think it’s right’.

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But, so the philosophical argument goes, moral views can express themselves in action only if they engage with our feelings, and do so not just in an accidental way, but because of their very nature. No mere rational recognition of the facts, it is said, can dispose us to action, only our feelings can do that.

These two arguments, then, have been put forward in support of what is often called the ‘subjectivist’ position: that our basic moral views derive from feeling rather than reason, and are therefore essentially subjective. What principally counts against that position, however, is that it seems to run counter to our moral experience. Our sense of what is at stake in moral arguments seems to rest crucially on the assumption that there is a truth to be discovered, that we are concerned not just to uncover our feelings, but to find out whether something really is right or wrong. To some extent the subjectivist position can account for this. It leaves room for the acknowledgment that in cases of moral disagreement and perplexity there will always be facts to be sorted out. Russell, we have seen, allows that there is room for rational argument as to whether a certain course of action will lead to a particular set of consequences; what he denies is that the view that the consequences are in themselves desirable can be true or false. However, experience suggests that even at the level of such fundamental moral beliefs we are doing more than recording our feelings. If I believe that killing is in itself wrong, or that we ought not to create unnecessary human suffering, it does indeed seem to be a belief I am expressing, not just an emotional dislike of killing or suffering. Beliefs are by definition things that are true or false. It is a deep-seated feature of our language that we talk about moral beliefs rather than moral feelings. Admittedly this may be an illusion. Language may mislead us, and perhaps we should change it and stop talking about moral beliefs. If it is an illusion, however, it is a very deep and pervasive one, and it needs explaining. If, on the other hand, talk of ‘moral beliefs’ is in order, then it follows that there is such a thing as a moral truth to be discovered, that that truth is in principle objectively ascertainable, and that it is the task of reason to ascertain what kinds of actions really are right or wrong. This is what is standardly called the ‘objectivist’ position. This philosophical dispute between subjectivism and objectivism is the theme of the present chapter, and it will be a continuing concern throughout this thesis, alongside my particular concern with the rights and wrongs of war, including civil war.
Hume, General Standards and Language

As a first step towards an answer to the general philosophical problem, I want to look at one of the classic formulations of the subjectivist position, by the eighteenth-century Scottish philosopher David Hume.\(^6\) He maintains that reason cannot be ‘the sole source of morals’.\(^7\) He recognises that reason does have an important role to play in moral disputes. Like Russell, he allows that reason can instruct us in the tendencies of actions, can tell us what will happen if we do this or that, and this knowledge of consequences is of course essential in deciding what to do. But when all the facts are known, when we have discovered all that can be ascertained about the likely states of affairs to which our actions will lead, there still remains the question whether, in the light of all their consequences, such actions are to be the object of approval or disapproval. Here, says Hume:

The understanding has no further room to operate ... The approbation or blame which then ensues cannot be the work of the judgement but of the heart; and it is not a speculative proposition or affirmation, but an active feeling or sentiment.\(^8\)

Hume thinks that one feeling in particular underlies our moral assessment of actions, and that is the feeling of ‘sympathy’ (which he also calls ‘humanity’ and ‘fellow-feeling’). Through sympathy we identify with and are moved by the happiness and suffering, joy and sorrow, pleasures and pains of others. Under the force of this feeling we tend to express our approval of those actions which promote the happiness of the agent or of others, and our disapproval of actions which have the opposite effect.

So far, then, the picture is of moral assessments as the direct expression of the feeling of sympathy. Hume’s position is, however, significantly modified in the following passage:

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\(^6\)References are to David Hume, An Inquiry Concerning the Principles of Morals (New York: Library of Liberal Arts, 1957).
\(^7\)An Inquiry Concerning the Principles of Morals, Appendix 1, ‘Concerning Moral Sentiment’, p. 105.
\(^8\)ibid, p. 108.
General language ... being formed for general use, must be moulded on some more general views and must affix the epithets of praise or blame in conformity to sentiments which arise from the general interests of the community ... Sympathy, we shall allow, is much fainter than our concern for ourselves, and sympathy with persons remote from us much fainter than that with persons near and contiguous; but for this very reason it is necessary for us, in our calm judgements and discourse concerning the characters of men, to neglect all these differences and render our sentiments more public and social ... The intercourse of sentiments, therefore, in society and conversation makes us form some general unalterable standard by which we may approve or disapprove of characters and manners.⁹

The important insight here is the role of language. Our shared language contains value-concepts which provide us with shared, impersonal standards for assessing human actions. Hume emphasises especially our vocabulary of words for virtues and vices, that we use to praise or blame people for acting 'justly' or 'unjustly', for being 'generous', 'courteous', 'industrious' or 'honest', or for being 'cruel', 'cowardly', 'lazy' or 'dishonest'. I shall suggest in due course that these are only a limited range of our value-concepts, but for the moment the point is that insofar as these concepts are embedded in a public language they constitute a 'general unalterable standard by which we may approve or disapprove of characters and manners'. This is, however, a major shift in Hume's position. It appears that our moral judgements are not after all direct expressions of feeling. Our judgement can, Hume acknowledges, 'correct' our emotions, so that we can recognise a person or an action to be admirable or deplorable, whatever the feelings we may happen to have. The relation between our feelings and our evaluative language is therefore a complex one. It is because as human beings we share certain basic feelings that we are able to share also the same value-language. However, given that we do share such a language, our judgements can transcend our feelings and can have an impersonal character. We judge not on the basis of our feelings, but on the basis of the standards encapsulated in the language. Nevertheless our sharing certain natural human feelings is a precondition for our being able to employ those impersonal standards.

Hume, the archetypal subjectivist, is thus able to indicate, I suggest, how objective moral judgement is possible for us as language-users. I want to take this account further and, in doing so, to propose two substantial modifications to Hume's version. First, Hume implies that the general standards in our language are deliberately and consciously adopted in order to

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⁹*An Inquiry Concerning the Principles of Morals, Section v, 'Why Utility Pleases', pp. 55-6.*
make communication possible. We find it inconvenient to be limited to judgements which are as variable as our feelings, he seems to be saying, and therefore we decide to employ a common value-language instead. In fact, of course, language is something that we only rarely invent. We inherit our language. Certainly we can change it; that is important, as we shall see hereafter, and it means that our evaluative vocabulary can develop over time. Nevertheless we do not invent language, and we do not invent the values it encapsulates.

**Primitive Responses**

The second major addition which I want to make to Hume's account is that I take 'sympathy' to be just one example of an emotional response which is related to our evaluative language in the way that he indicates there is a great range of such 'primitive responses', as I want to call them, which underlie our shared vocabulary of evaluation. There are, first, all those responses which give rise to our ways of assessing the quality of our lives and experiences. Some philosophers have tried to make 'the desire for happiness' do all the work here; they have put forward the concept of 'happiness' as the one basic concept with which to characterise a worthwhile life. This again is a massive over-simplification. Even if we did employ the term in this all-embracing way, it would be useless unless filled out with a host of more specific concepts. The fact is that we do not just assess situations and experiences in terms of happiness or unhappiness. We assess them as 'life promoting', 'interesting', 'exciting', 'fulfilling', 'demanding', 'amusing', 'comfortable', 'peaceful', or negatively as 'life threatening', 'dangerous', 'boring', 'annoying', 'frustrating' and so on. We are able to use these evaluative concepts because we possess the natural human propensities to respond to situations with boredom or interest, frustration or excitement or whatever, though the use of a particular concept to appraise some aspect of one's own or another's experience is not necessarily a direct expression of the corresponding response. I can objectively recognise a situation as exciting without its being the case that either I or anyone else is actually experiencing feelings of excitement.

That then is one set of evaluative concepts, with which we characterise the components of a worthwhile human life. A second main set consists of the concepts with which we appraise our relations with one another. The response of sympathy plays its part here, underlying some
of these concepts. If we did not have this capacity to be affected by, and to identify with, the experiences of others, we would not employ the evaluative vocabulary with which we praise actions as ‘kind’ or ‘generous’ or ‘helpful’, or criticise them as ‘cruel’ or ‘thoughtless’ or identify obligations to assist one another in situations of need. Again, however, I want to suggest that sympathy is not the only primitive response which underlies our evaluative understanding of our relations to one another. For a start I want to contrast it with the equally basic general response of respect. Whereas sympathy is primarily a response to others as passive beings, as beings who are affected by the world in various ways and who enjoy or suffer accordingly, respect is a response to others as active beings, as agents. So, whereas sympathy involves a spontaneous inclination to respond to other people’s needs and interests as to one’s own, respect by contrast may involve distancing oneself and recognising that others’ projects are theirs, not mine. It is an inclination, not to live others’ lives for them, but to stand aside and let them live their own lives in their own way. If in the history of philosophy the idea of ‘sympathy’ is associated especially with Hume, that of ‘respect’ is linked with Kant.\(^\text{10}\) Simplifying somewhat, I want to take from Kant the insight that whereas things, objects, have value because of their importance for persons, their place in people’s lives and projects, persons themselves, as the source of this value, possess not value but dignity and, as such, the appropriate response to them is one of respect. A moral theory that was grounded solely in the attitude of sympathy would be subject to the critique that it was merely ‘utilitarian’ in character; human actions might then be assessed solely on the basis of the tendency to promote happiness or prevent suffering. In due course I shall have a good deal to say about the inadequacies of a purely utilitarian morality, but for the moment I want to note one particular criticism that is made of it by many contemporary philosophers. If utilitarian morality is concerned simply with doing good, with promoting as much well-being and relieving as much suffering as possible, it may appear to justify using some people against their will in order to do as much good as possible. This may mean using them to promote the good of others, or it may mean trying to promote their own good in ways which they do not want. What utilitarian moral thinking seems to leave out, then, is values founded on respect, values such as ‘freedom’ and ‘autonomy’. Most important of all, such values include a respect

\(^{10}\)The classic discussion is in Immanuel Kant, *Groundwork of the Metaphysics of Morals* (also translated as *Fundamental Principles of the Metaphysics of Morals* and as *Foundations of the Metaphysics of Morals*, (London: Hutchinson, 1947). There is also a conveniently available translation by H.J. Paton with the title *The Moral Law*).
for life, whereas utilitarian thinking by itself justifies too easily the sacrificing of someone's life to promote the good of others. This will be a central theme of subsequent chapters, but for the moment I simply want to make the contrast between the two kinds of values, and to note finally that the two come together in the idea of justice, where we are concerned to promote the well-being of all the members of a community in a way which does not involve sacrificing some of them for others.

I have been contrasting the two basic responses of 'sympathy' and 'respect', and the moral concepts which arise out of them. The two are alike, however, in being quite general responses, attitudes which one might have towards any other human being. As such they contrast with a variety of more specific responses located in more specific relations between people - all the various kinds of love, affection, commitment and trust distinctive of friendships, sexual relations, family relations, relations between neighbours or colleagues or comrades. All of these give rise to their own specific kinds of loyalties, which all have their place within our moral understanding. We might try to formalise these as a list of 'obligations' or 'duties', specifying the distinctive moral obligations which we have to our friends, to our children, to our fellow citizens or fellow workers. How appropriate the language of 'obligations' and 'duties' is, I am not sure. In some cases the very use of such language might seem to indicate that the relationship is false or is dead; if I have to talk of my 'obligations' to my friend or lover or child, it cannot be much of a relationship. On the other hand I do not want to say that the behaviour appropriate to such a relationship is confined to the direct expression of the relevant emotions. As with sympathy and respect, so also these more specific responses and emotions give rise to a settled vocabulary in terms of which we understand and assess our behaviour. Thus, I may decide that I ought to act in a certain way because of the particular responsibilities that I have to a friend, even though I may at this moment be feeling distinctly unfriendly towards her. Likewise any parent will recognise the sentiment that 'though I love my child dearly', at the moment 'I feel like murdering him'.

So far the various primitive responses I have identified as underlying our moral vocabulary are, for all their diversity, all positive responses to others - sympathy, respect, love, affection and so on. But, it may be said that we also, and notoriously, respond negatively to others, with fear and hatred as well as with love and respect. Why then are these negative feelings not just as significant as the positive ones for our moral understanding? An easy answer would be that
to see our relations to others in the light of these negative responses would not be to think in moral terms, since by definition to think and act morally is to be guided by a concern for the needs and interests of others. That, however, is too easy an answer. Nothing in all this should be made to hang on the possibly limited connotations of the word ‘moral’. Thus, Hume might have defended the central place allotted to ‘sympathy’ by saying that though of course we are motivated by a host of other passions, sympathy is the one which specifically explains our moral judgements. But what we want to know is not what kinds of practical judgement can be defined as ‘moral’. We want to know how we ought to live and act, and if we are told that some of the reasons we might have for acting in certain ways are not distinctively moral reasons, that simply raises the further question ‘Then why should I act morally?’

So what about negative feelings and responses to others? I want to say that they do help to shape the vocabulary with which we can rationally assess our actions. As beings who can be motivated by fear, for instance, we may quite appropriately see someone as a threat to us, and it may then be quite rational to defend oneself against that threat. Likewise it may be, in itself, rational to react adversely against those who have wronged us or wronged others, and if it is asked what exactly is rational about this, the answer must be that, insofar as responses such as ‘anger’ and ‘hostility’ are part of our make-up as human beings, this just is one of the ways in which we understand our relations to one another. It may be that we should sometimes seek to inhibit our anger, but to ask, say, of your response to someone who has just destroyed your treasured collection of ornaments ‘Why be angry with him?’ would be perverse. To recognise what anger is, just is to understand what makes that response a rational one in such a case.

One important part of our moral vocabulary which has its roots in these negative reactive responses is the vocabulary of ‘guilt’ and ‘innocence’. We have the idea that if someone has done wrong they ‘deserve’ to suffer or be punished, and that inflicting suffering on such a person is morally different from inflicting it on someone who is perceived as ‘innocent’. Clearly this is bound to create conflicts within our moral thinking. The idea that some people deserve to suffer is bound to come into conflict with the idea, grounded in responses such as sympathy, that it is in itself wrong to inflict suffering on anyone. Both these ideas are components of our moral thought. Which should give way to the other, and in what circumstances, is something that has to be worked out (and that will be one part of the argument I pursue in the following pages). It may be that we should ‘love our enemies’, but
even if we reach that conclusion, it remains the case that some people are indeed ‘enemies’ and that such a term remains an ineradicable part of our vocabulary for understanding our practical relations to one another.

I have been looking at the moral significance of our relationships with other human beings. Our moral vocabulary also has to provide ways of understanding our relations with the non-human world, both animate and inanimate, and this too will be grounded in our primitive responses. Much of our behaviour towards the non-human world is instrumental; we make use of nature for our purposes. But some of our responses to other humans, such as sympathy or pity, are responses also aroused by other living things. Hence concepts such as ‘cruelty’ and our understanding of the wrongness of inflicting suffering will apply also to our treatment of animals which can suffer. How far our moral understanding of relations between human beings can be extended to our relations with the non-human world is too large a question to pursue in this thesis, other than to say that it will depend in the end on the nature of our primitive responses to non-human beings. But I do want to note that there are also certain basic human responses which are *distinctively* responses to the *natural* world - responses such as ‘reverence’ and ‘awe’, for instance, that are specifically aroused by the foreignness and mystery of the non-human. Such responses might give rise to a whole way of seeing the natural world. I would suggest, in particular, that they underlie any religious view of the world. They also underpin more recent kinds of ecological thinking, which suggests that we should think more in terms of living in harmony with nature rather than our present instrumental attitude. How far these ways of thinking can be sustained is another large question which I shall not pursue in this thesis. Their initial plausibility is based on certain basic human responses to nature. The question is then how far they can make sense of the overall pattern of our experience, and whether they give too much weight on particular features of that experience.

*Language, Meaning and Reason*

So far, then, I have sketched the beginnings of an account of how we can reason objectively about how we should act. I have suggested that we assess our actions by reference to the evaluative concepts embedded in our language. And I have suggested that we are able to share
an impersonal language of evaluation because underlying it are the primitive responses which
we share as human beings. Some of the reasons we give for how we have acted or how we
ought to act refer directly to these feelings and responses. Thus, I may give a reason for my
behaviour by saying that I was angry, and show that anger was an appropriate response in the
circumstances. I may say that people ought to act in a certain way because they ought to
respect the freedoms or the lives of others, and this reason is rooted in the existence and
nature of respect as a fundamental human response. Other terms in our moral vocabulary do
not refer directly to these responses but presuppose them, for instance our vocabulary of
virtues and vices such as ‘generosity’ and ‘cruelty’, our vocabulary of ‘justice’ and our talk of
obligations and duties. I have suggested that we could usefully group our evaluative concepts
in two broad classes, corresponding to two basic kinds of responses:

1. the concepts with which we characterise the components of a worthwhile life, and
   identify what human beings need if they are to live such a life; and

2. the concepts with which we characterise our moral relations with one another, and our
   relations also with the non-human world.

These are not two watertight compartments. Our understanding of a worthwhile human life
will include a recognition of our need for certain kinds of relations with others. Conversely it
is because we stand in certain kinds of relation to others that we are concerned about their
needs as well as our own. Nevertheless the classifications may serve to indicate the range of
our evaluative concepts.

By now it may be asked: why give this privileged status to language? The account of moral
thinking I am trying to develop seems to imply that the reasons which we can give for or
against particular courses of action, depend on the evaluative concepts which happen to be
enshrined in our language. Does this not look altogether too arbitrary? On one hand, it might
be asked, why should we be limited to the standards of rationality which are current amongst
those with whom we share a language? On the other, why should we assume that the
standards which are encapsulated in our language are genuinely rational? May not our
language be as much a repository of error and illusion?
I want to claim that there is an important sense in which we cannot step outside of our language. The fact is that it is only from within a shared language that we can see our actions as meaningful. A human action is not just a physical movement. What distinguishes even the most rudimentary actions from involuntary bodily movements, such as breathing or the blinking of an eye, is that the former have a meaning. Furthermore, 'meaning' can only be shared meaning, a meaning which is at least in principle communicable to others. Just as language itself can have a meaning only insofar as it involves publicly shared rules and criteria for its acceptable use, so likewise our actions can have a meaning only insofar as they can be characterised in meaningful ways within a shared language. Outside such a context, human behaviour cannot even be intelligible.11

What then is the connection between these considerations of 'meaning' and 'intelligibility' on the one hand and, on the other, the business of giving reasons in order to justify or criticise an action? Clearly they are not the same. To understand an action, to make it intelligible, is not necessarily to justify it as right. Nevertheless I think that they are closely connected, and my suggestion is that the concepts in terms of which an action could be made intelligible are the concepts which could count as reasons for or against an action. Consider an example: an act of killing. Suppose that an elderly couple is found killed by an intruder who broke into their house. 'Why were they killed?' we ask. Perhaps the intruder was a burglar, who was surprised by the couple whilst in the act of stealing. But suppose that we discover that nothing was taken. The killing now needs more explaining. Perhaps we discover that the killer was their son, who had been rejected by them many years ago and had long harboured a grudge against them. So now we can understand the killing as an act of vengeance. But suppose instead we find that the killer had no previous connection with the couple. It now appears a 'senseless' act of killing. Then, from the questioning of the killer, it emerges that he is a lonely and embittered man, who feels that all his ambitions have been thwarted by a hostile world, who nurses a grudge against 'society'. This violent act which outrages everyone is his way of wreaking his revenge on a world which has rejected him. So now, at least, we can make some sense of the action, but not enough to justify such action.

11The claims which I make in this paragraph, and which derive from the philosophy of Wittgenstein, are defended at greater length in my other thesis Reasons for Actions. (University of Western Sydney, Hawkesbury: GDSF: Faculty of Social Inquiry, October 1986).
Thus, understanding this action, making it intelligible, is not the same as justifying it or showing it to be right. Nevertheless, the considerations which make it intelligible - its being a means for the killer to acquire certain goods, or its being an act of vengeance, either personal or generalised - explain it because they are the sorts of considerations which could be used to justify an action. They explain it because they give us his reasons for doing what he did. Now what we are likely to say is: they may be *his* reasons, but they are not *good* reasons. What, then, is the difference between the two? Not, as might be supposed, that the former are purely private and personal whereas the latter are publicly acknowledged, for the fact is that *his reasons* can be properly so called only if they really are *reasons*. If what he gave as *his reasons* were, in fact, unintelligible (e.g., ‘to get blood on my knife’) they would explain nothing and therefore would not be recognised as genuinely his reasons, whatever he might say. To be even considered as reasons at all, they must make the action intelligible from a publicly shared standpoint. Since, then, we cannot drive a wedge between ‘his reasons’ and ‘reasons’, the important distinction must be between ‘reasons’ and ‘good reasons’. Why might we say that the reasons in the example are not good reasons? There are two possibilities. One would be that the reasons, though they are in principle genuinely capable of being reasons, are not appropriate to this situation. If he kills the couple because he bears a grudge against the world, the obvious point to make is that they cannot be blamed for his misfortune. Such a case might be contrasted with the case where he bears a grudge against them because they rejected him as a child - though in that case too the reasons might not be good reasons if it turned out that he had been a very difficult child and the parents had done their best for him, eventually turning him out only because they thought he would be better off on his own. The other obvious point would be that though he has reasons for doing what he does, they are not strong enough to override the overwhelming objections to the act of killing. In other words, the reasons are indeed reasons, but they are being made to carry too much weight; they do not justify performing this particular action in these circumstances. ‘Reasons’ thus become ‘good reasons’ if they are sufficiently appropriate and sufficiently strong, bearing in mind the other reasons which are relevant to the case. There is no radical difference in kind between the two.

This may still seem too weak a distinction. Someone might say ‘His desire for vengeance may make his action intelligible, but I don’t think it is a good reason for doing anything at all. I don’t think that people ought to be motivated by such considerations’. Recall Bertrand Russell’s comments about vindictive punishment; he implies that since some people just do
regard it as a good thing for its own sake and others do not, the former would count it as a good reason for at least some actions whereas the latter would consider that it could never be a good reason for any action at all. What is correct here, I think, is that we can indeed reject particular moral concepts which are a feature of our language, and refuse to employ them as reasons. However, what I also want to emphasise is that our rejection is itself something for which we must give reasons, and those further reasons must themselves invoke concepts in our moral language. In other words, we can reject some of the evaluative concepts in our language by appealing to others, but we cannot stand outside our moral language altogether and invent reasons for ourselves. Thus, one might reject concepts of revenge and retribution and the idea that people deserve to suffer if they have done wrong, and one’s reason for rejecting them might be that their use has led to too much cruelty and additional suffering. Or one’s reason might be that these ideas presuppose too strong a notion of individual responsibility, and that we can never plausibly attribute that degree of blame to individuals for the wrongs they have done. What one cannot do is simply deny the capacity for concepts such as ‘deserve’ or ‘revenge’ or ‘retribution’ to furnish any reasons at all, without giving any reasons for rejecting them. Thus, my account leaves room for radical conflicts between the proponents of different values, and for the radical rejection of conventional moral assumptions. It insists only that these conflicts and disagreements take place within a shared framework of evaluative language which furnishes the concepts invoked by contending parties, and that to step outside that framework altogether would be to abandon the possibility of seeing our lives and actions as meaningful.

**Human Nature**

So much, then, for my emphasis on the importance of language; but I also want to insist that language is not just a free-floating set of meanings. I have also maintained, with equal emphasis, that our evaluative language is rooted in our nature as human beings, in our basic human responses. This talk of ‘human nature’ may appear as equally problematic as my emphasis on language. Notoriously, claims about human nature often ascribe a false universality to forms of behaviour which are in fact culturally specific. Often these claims serve an ideological purpose, purporting to legitimise particular social institutions by making them appear inevitable. Thus, advocates of a market economy may claim that human beings
are naturally competitive, defenders of nationalism or militarism may claim that humans are naturally aggressive, and the striving for greater social justice may be countered with the claim that humans are naturally selfish. The falsity of these universal claims about human nature becomes apparent when we look at the great diversity of ways of life in different cultures, and when we consider how different modes of upbringing can foster different character-traits in individuals.

Talk of ‘human nature’ therefore has its dangers, but it does not follow that the very idea has to be abandoned just because of the spuriously universal claims that are made in its name. Notice, indeed, that the counter-claim that human beings are moulded by their environment and upbringing could not coherently be made unless there were something to be acted on by environment and upbringing. Some notion of human nature, then, is indispensable. My own employment of the idea involves not claims about the dominance of particular kinds of behaviour, but what I want to call a repertoire of basic responses which is drawn on in different ways by different cultures or groups or individuals in different circumstances. Thus, aggression is a trait which may be fostered by some cultures and played down by others, but this could not be so unless a capacity to respond aggressively to some kinds of situations were a natural feature of human beings. Anger is a basic human response. In different cultures people may be taught to exhibit anger in different circumstances or in different ways, but anger itself, as a distinctive response, is a brute irreducible feature of human life.

Anger may be too easy an example. Can we always be so sure whether a particular feature of human life is natural or is entirely a cultural product? No, we cannot. Particular examples may be contestable. Take the case of jealousy, or in particular sexual jealousy. Is this a basic human response? Or is it a cultural product, a response fostered by a patriarchal culture in which women are seen as men’s private and closely guarded possessions? In such cases there is no easy answer. We have no alternative but to examine the particular phenomena, to look at the facts of cultural variety or constancy and to look at the nature of the response itself and whether it presupposes specific social or moral beliefs. What we decided about sexual jealousy would, in turn, affect what we thought about moral concepts built on it, such as that of fidelity. Doubts about other examples which I have previously presented as uncontroversially basic responses could only be dealt with in the same way. None is immune
from critical examination. But that some at least are authentically universal and basic can hardly be doubted.

The universality of basic human responses makes for at least a potential universality also of evaluative language. I have until now, with deliberate vagueness, referred to ‘our’ evaluative language. This should prompt the question ‘Who are ‘we’?’, for, like talk of human nature, such uses of the first-person plural lend themselves to a spurious universality. Philosophers, especially, are prone to pontificate about what ‘we’ would say on this or that, and thereby ascribe a general validity to what may be merely the assumptions of their own limited social group. It has to be recognised that different natural languages incorporate different evaluative concepts, and that a particular concept in one language may have no direct equivalent in another. When we read the ethical writings of the ancient Greek philosophers, for example, we find that some of their terms, such as the names for some of the virtues, cannot be easily translated into modern English, and that there are in ancient Greek no words for some modern ethical concepts (such as ‘rights’ and ‘obligations’). This does not mean, however, that people are trapped within a particular ethical perspective represented by their own native language. Because human beings share the same basic human responses, they can come to understand the ethical concepts of another language and another culture, even if there are no obvious exact equivalents in their own language. They can do so just as a child can learn its own ethical language in the first place, in the context of its natural responses to shared human situations. A child learns concepts of ‘justice’ and ‘fairness’, for example, by encountering situations where conflicts have to be dealt with in what is basically a cooperative activity - the playing of games is an obvious context in which this may first be encountered. The child’s ability to understand the force of remarks like ‘It’s not fair’ depends on his or her experience of cooperation and of commitment to cooperative activities. But if this experience makes certain ethical concepts available to a child learning his or her own language, it makes them equally available to an adult human being from another culture. What counts as ‘fair’ or ‘just’ may vary from culture to culture, but we can come to see the point of alternative practices as ways of coping with the same basic experience. When I talk, therefore, of evaluative standards embedded in ‘our’ language I mean standards which are, at least, potentially employable by all human language-users. They may not coincide with the standards current within a particular natural language, but any such language is capable of being extended to incorporate concepts from other languages. The process of criticism and of acceptance or rejection of particular
concepts in the light of others, to which I have previously referred, can take place not only within a particular language, but between languages. It is in virtue of these possibilities of shared ethical reflection, grounded in shared experience and shared natural responses, that I think it appropriate to talk about the human community, the community of potential communicators, as a moral community.

To say that our moral thinking is grounded in a shared human nature is not to say that it is about human nature. Here I want to distinguish my position from a certain kind of ethical naturalism which maintains that our judgements of situations as good or bad or of actions as right or wrong are really reports of our responses to those situations or actions. On this view, 'This is good' means roughly 'I like this', and 'That action is wrong' means roughly 'I disapprove of it'. There is an obvious affinity between this version of naturalism and the subjectivism which was discussed earlier. It is not a position which I want to defend. In my view, our ethical judgements are not about our responses, but are assessments of our lives and actions and relations with one another. They are judgements that particular human lives are fulfilled or unfulfilled, exciting or boring, rich or impoverished; that actions are cruel or kind, heroic or cowardly, honest or dishonest; that societies are just or unjust, free or unfree. I want to say that judgements of this kind can be objectively true or false. But what makes these concepts, and others, the appropriate concepts with which rationally and intelligibly to assess human lives and actions and societies is that they are features of our shared language, and they are so because we are the kinds of beings that we are, with the kinds of responses which we do have.

Projection and Reification

To say that we view the world in the way that we do because we are the kinds of beings that we are, and because of the kinds of responses we share, may seem to invite the comment that what we are really doing is projecting our responses onto the world, or 'objectifying' those responses. We might think, it may be said, that our ethical beliefs are objective assertions.

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12 For such talk of 'projection' and 'objectification', see J.L. Mackie, *Ethics: Inventing Right and Wrong* (Harmondsworth: Penguin, 1977), ch. 1. A 'projectivist' position, applied both to moral language and more
about an objectively existing reality, but in thinking this we are in error, and the error is a systematic error built into our moral language. When, for instance, we say of certain actions that they are right or wrong because they are honest or dishonest, just or unjust, we may suppose that we are saying something about the objective character of those actions. If, however, our use of concepts such as ‘honesty’ and ‘justice’ involves the projection onto the world of our own human responses, this may seem after all to warrant the subjectivist conclusion that what we are really doing in making such judgements is expressing our subjective feelings.

The terms ‘projection’ and ‘objectivication’ may be a harmless enough way of describing the relation between our primitive responses and what they enable us to say about the world, but we should resist the inference that what is involved here is some kind of error.\footnote{The ‘error theory’ is put forward by Mackie, \textit{Ethics}, p. 35. Mackie therefore uses the ideas of ‘projection’ and ‘objectivication’ in support of a subjectivist position. Blackburn claims that we do not need to talk of ‘error’ here and argues for a position which he calls ‘quasi-realism’ (see especially \textit{Spreading the Word}, p. 180).} To clarify the relation between our primitive responses, our language and objective features of the world, compare the example of humour. How is it possible for us to describe situations as ‘funny’ or ‘comic’? There would not be such situations if there did not exist the irreducible human response of laughter. The existence of laughter is not something which can be explained further, it cannot be derived from any other features of human behaviour and attempts to explain it in that way have always been ludicrously inadequate. It is a basic feature of human nature. This is not to deny that in some people a sense of humour is undeveloped, but the responses of humour and laughter are sufficiently widely shared to make possible also a shared language of humour, so that we can describe situations as ‘funny’, ‘comic’, ‘hilarious’, ‘ridiculous’ and so on. We could not talk in this way without a background of shared responses, and what counts as ‘funny’ or ‘comic’, or whatever, is determined by the nature of those responses. In that sense it could be said that the application of those descriptive concepts is a ‘projection’ of our responses. No error is involved, however, in the use of such concepts in this way. There is nothing misleading in talking about features of the world rather than simply talking about our responses themselves.

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There are limits to this analogy between ethics and humour. In the case of humour and laughter, the common ground of shared responses is not always universal. Though there need be no hesitation about describing laughter as a basic component of human nature, there is also no doubt that there is considerable diversity within this common ground. Different people laugh at different things, and though the diversity is not so great as to prevent us using the object-language of ‘comic’ situations, it is such that we sometimes just have to say, ‘Well I find it funny even if you don’t’. One of the questions which we shall in due course have to consider is whether we eventually reach a comparable point of breakdown in ethics too. However, notice one difference immediately; it does not matter that people differ in their sense of humour, but it does matter if people cannot reach agreement in ethics. If the common ground breaks down, that is itself a moral problem. There is therefore pressure to look for common ground and to try to reach agreement. We do not have to accept that pressure, and we might have moral reasons for resisting it, perhaps believing that at least in some cases conflict can be fruitful, but the pressure is there, and this constitutes a difference between the case of ethics and the example of humour.

Despite that difference, what the example of humour illustrates is that though our ways of characterising the world depend upon our shared basic responses, and though they could in a sense be described as ‘projections’ of those responses, there need be no illusion or error in such projections. I want to maintain that this is true also of our ethical language. Nevertheless, though at the general level the language of moral objectivity is not in itself erroneous, I do want to suggest that certain specific forms of ethical language do involve ‘projection’ in a stronger, derogatory sense, that I shall call ‘reification’. There are certain kinds of ethical concepts, and ways of using them, which distort or conceal the relation of ethical judgements to our natural human responses. I want now to give some examples of such ‘reified’ or ‘alienated’ moralities.

A certain style of moral philosophy, influential in Britain in the 1920s and 1930s and epitomised in the work of W. D. Ross, placed at the heart of moral thinking the idea of certain fundamental and self-evident moral duties.\textsuperscript{14} A comparable tendency in more recent years has been the revival of the idea of moral rights, and again these are often treated as though they

were self-evidently valid, not standing in need of any further justification. The concepts of ‘duties’ and ‘rights’ are in themselves perfectly respectable concepts, and are indeed two sides of the same coin. The roles which people occupy, within social institutions of all kinds, carry with them various rights and duties, which serve to define the roles. For example, a person chairing a meeting has a duty to ensure that everyone gets a fair hearing, and with that goes the right to tell people to shut up if they are dominating the meeting and preventing anyone else from getting a word in. We could give innumerable other examples of institutional rights and duties of this kind, but the question then arises: what about the idea of rights and duties which are not attached to particular institutional roles? There are legitimate uses for this idea, but to use it intelligibly we should still have to ground rights and duties in the actual ways in which human beings relate to one another. We can meaningfully talk of rights and duties which we have in virtue of our informal pre-institutional social relations. Consider the duty to keep a promise, and the corresponding right to receive what has been promised to one. We can adequately explain why there is such a duty and such a right only by referring to the relation of trust and reliance which is created between promiser and promisee. What is wrong with the breaking of a promise is that it violates that relation of trust. In this way our moral duties are grounded in our concrete experience of our relations to one another. Contrast this with the idea of free-floating moral duties which are supposed to be just self-evidently ‘there’, and whose binding character we are supposed to recognise intuitively. Where do such duties come from, and why should we be bound by them? The idea remains wholly mysterious, because the supposed duties are cut off from any grounding in human experience.

The same goes for the idea of moral rights. We can make sense of specific rights deriving from specific social relations, like the right to what has been promised. But what about the idea of basic ‘human rights’, which we are supposed to possess simply by virtue of being human? This is a popular and extremely influential idea, and we can, if we wish, give a sense to it. We could say that though particular societies fail to grant certain rights (such as a right to life, or to work, or to freedom of speech and assembly), they ought to do so; these, we might say, are basic human needs which every society must aim to satisfy if it is to deserve the allegiance of its members, and in that sense they are human rights even if they are not acknowledged social rights. This concept of human rights would then derive from ideas of human needs and ideas about what any society ought to be like. What is misleading, however, is the suggestion that there are ‘self-evident’ rights that are features of some pre-existing
moral universe, that there is a moral world constituted by moral rights analogous to, but over and beyond, the social world of social rights. This I regard as the projection of features of the real human world into an imaginary world which has an entirely illusory status.

The same, I suggest, is true of another influential concept, that of ‘the moral law’. This idea has a long history. It appears in ancient Greek writers as the idea of ‘the unwritten laws’. It emerges again in the medieval tradition of ‘natural law’ morality, and in Kant’s notion of a moral law which takes the form of a ‘categorical imperative’.

As with the concept of moral duties, the idea has an obvious social origin. The notion of the law of a society is unproblematic. What then happens is that the concept of ‘law’ is projected from the social realm into an imaginary moral universe whose status is quite mysterious. It becomes the idea of an external demand which we have to obey, a self-sufficient moral requirement which imposes itself on us. Why should we do what the moral law tells us? That question can be answered only if the content of the moral law is detached from its alien form, demystified and re-connected with its roots in our experience. The demands of this ‘moral law’ must be shown to be things which do in fact matter to us as human beings, for otherwise they can have no force for us.

This requirement should not be misunderstood. In particular, it should not be confused with the narrower and misconceived requirement that in order to explain why we should do anything, one has to show that it is in our own interests. That demand is misconceived because it is a fact of human nature that things do matter to us other than our own interests. We care about one another, for instance, in quite disinterested ways, and that care takes a variety of forms; our multifarious emotions, commitments, ties and loyalties are as much a part of us as are our desires for ourselves and for our own well-being. The attempt to reduce morality to self-interest is therefore a misguided enterprise, but the attempt to ground morality in concrete experience, in our natural human responses, is a quite proper one.

There is another, quite different way in which the idea of ‘moral law’ can be thought to acquire its force and its backing.
The moral law can be thought of as one which is enacted by a divine legislator; it is the command of God. To mention this is to raise the whole question of the relation between morality and religion, and between religious and humanist perspective's in ethics. I have already said that 'religious' attitudes, understood in a broad sense, are a fundamental component of human experience. This, however, leaves room for great variety between people according to how large a role religious attitudes play in their lives and their thinking. In some people the principal focus is elsewhere, on human concerns and human relationships. In others, religious attitudes may come to occupy a dominant place. A further step is taken when the religious perspective is articulated in the terms of one of the orthodox systems of religious belief, ascribing to God or the gods a determinate personality and a determinate will which has manifested itself in history and which requires certain kinds of behaviour from human beings in the future. I will not discuss in this thesis the question of the truth or falsity of religious belief. I shall simply state baldly my own position. I can understand the strength of religious attitudes, but the move beyond that to religious dogma, for example to claims about the existence and nature of a god, or to the confident assertion that the divine is fully revealed in the acts and sayings of a particular human being born in Bethlehem 2,000 years ago or in Mecca 1,400 years ago, seems to me to be without any rational justification. Having said that, however, the question then remains: how much room is there for fruitful moral argument and possible moral agreement between the religious believer and the non-believer?

My answer is that there is ample room so long as religious morality makes reference to human experience. Any religious morality which claims to appeal to reason will have to offer some account of the same range of experience which is the starting-point of a non-religious morality. It will have to address itself to the existence of human needs and desires and to the nature of human emotions and relations. So, for instance, a religious morality which possesses a loving creator who desires the well-being of his creatures and who has endowed them with a nature which they need to fulfil will have a great deal of common ground with a humanistic morality. Indeed, the attempt by the religious believer to establish what God wills for his creatures will have to reason from the same facts of human need. Or take the experience of human solidarity. The idea of the 'brotherhood of man' may gain an added resonance from the

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15For the Greek idea of unwritten laws see, for example, Sophocles' Antigone, lines 450-7. The most important mediaeval exponent of 'natural law' morality is Thomas Aquinas: for a convenient introduction see D.J.
belief that human beings are all children of one God; but that notion of God as father is not just arbitrarily chosen, it is arrived at precisely as a result of the experience of paternal relations between human beings and the sense that such relationships are rewarding and fulfilling.

So there is no limit in principle to the scope for agreement between a religious and a humanist morality so long as both rest on the appeal to experience. On the other hand, the situation is quite different when a religious morality rests on an appeal to authority. Orthodox religious systems of moral belief typically claim to possess revealed moral truths, in the form of sacred texts or the reported utterances of past prophets or the current deliverance's of divinely inspired religious leaders. In its most extreme form such a claim sets itself beyond rational argument, once the authority is accepted. It is then immune to the test of experience. However, the appeal to authority brings its own problems with it. The more that religious morality tends in that direction, the more incapable it becomes of saying why anyone should accept that authority. What reason could be given? 'A voice spoke to me'? But many people hear voices - the Yorkshire Ripper heard voices telling him to kill prostitutes - so what makes this particular voice the voice of divine authority? 'It's written in a book (or on tablets of stone, or gold scrolls, or whatever)'. But there are plenty of books around, including not a few which claim to be divinely inspired - why pick out this one? Tablets of stone are in shorter supply, but presumably it is not just the fact of being stone that is supposed to give them their authority. So what does confer that authority? If a certain body of moral teaching does impress itself strongly on people and appear to them to be authoritative, this can only be because it makes sense of people's moral experience, because it unifies that experience, illuminates it by pointing out and articulating insights previously only half glimpsed. We therefore come back to the fact that an appeal to authority can be convincing only insofar as it connects with people's experience. If it cuts itself off from that experience and becomes simply a set of commands, it is immune to rational argument, but by the same token it loses its authority.

In the subsequent discussion of the ethics of war and peace I shall therefore feel no need to take account of moral claims which consist of no more than a bare appeal to authority. I do

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not, for instance, think that the argument for pacifism is advanced by pointing out that Jesus said ‘Love your enemies’ or that he told Peter to put up his sword.

Knowing that Jesus said these things may affect our estimate of him as a moral teacher, but in order to make that estimate we already need at least some moral understanding. We also need that prior understanding even in order to interpret these rather elusive sayings. Notoriously, they have been invoked by some as support for pacifism, whilst others have denied that they offer any such support. The argument between the two schools of interpretation is therefore likely to invoke all the same considerations as will occur in any argument for and against pacifism. Mixing the argument with an appeal to religious authority needlessly complicates the issue. However, because of the influence of such alignments in society, it cannot be neglected.

Conclusion

I have been distinguishing between reified moralities and moralities which are rooted in human experience. The former, insofar as they have a rational content, derive it from experience but project it into a ‘beyond’ which conceals its origins and presents it as a set of external demands to which human beings must conform - as transcendent duties or rights, moral laws or divine commands. To assess any of these ideas, I have argued, we have to bring them back to their roots in experience so as to identify the valid elements in them.

I want now to look at two other styles of moral argument which also contrast with my own. The first of these consists in trying to deduce moral conclusions from some basic first principle. There are various examples of such an approach, but I shall concentrate on the one which has been most important and influential in Western society, the theory known as ‘utilitarianism’.\(^{16}\) I have already referred to it briefly, and I shall want to take issue with it at various points in this thesis. According to the utilitarian theory, the fundamental principle of morality is that actions are right insofar as they promote happiness or reduce suffering, and

\(^{16}\) The most influential historical presentation and defence of utilitarianism is John Stuart Mill, *Utilitarianism* (Garden City, New York: Doubleday, first published 1961, various modern editions). For a recent defence of
wrong insofar as they reduce happiness or produce suffering. Concrete moral decisions are then to be made by ascertaining what would be the consequences of our actions, in order to assess how much happiness or suffering they are likely to produce for everyone who would be affected by them. The theory tells us to produce as much happiness as possible (where this is shorthand for ‘the maximum net balance of happiness over suffering’). It is a maximising theory. When different people’s interests conflict and we have to decide who is to benefit and who is to lose out, we are to settle the dilemma by asking what will produce the greatest amount of benefit overall, rather than by asking what would be ‘fair’ or ‘just’ or who ‘deserves’ to benefit or is ‘entitled’ to benefit. Considerations of the latter kind may enter into our deliberations in a subsidiary way, as rough guides to the best consequences. If, for example, we have to decide between alternative courses of action which will devote a limited amount of resources either to the needs of the homeless or to the needs of millionaires, we may reckon that more benefit will be produced if the resources go to the homeless. The rule of thumb here is that, other things being equal, the less well-off are likely to derive greater benefit from a given amount of resources, and to that extent our intuitive ideas of ‘fairness’ are likely to be a useful guide to the correct utilitarian conclusion. But these ideas play only a subsidiary role, derived from the fundamental utilitarian principle.

Moreover, the theory recognises no independent constraints on the means we may employ to produce happiness, in the form, for instance, of principles that it is wrong to kill or to lie or to deceive or to coerce. Such principles can again be no more than subsidiary rules, guides to the likely long-term consequences, serving to remind us that actions such as killing or lying are likely to create unhappiness and can therefore be justified only if they also produce enough happiness to outweigh the unhappiness.

In these respects utilitarianism may well appear morally contentious, and we shall in due course look more closely at various moral challenges to the theory. Its defenders argue, however, that in practice its implications will, on the whole, tend to coincide with our common-sense moral beliefs and assumptions, and the theory can claim to offer a plausible explanation of why those common-sense beliefs are the right ones. Its great advantage is that

when common sense presents us with difficult dilemmas, the theory offers a single simple principle with which to resolve them, and by which to test all our moral intuitions.

The trouble is that it is too simple. It takes a single principle and elevates it to a special status amongst our practical concerns. If we ask where this principle comes from and why it should matter to us, the answer must be that it derives from some basic human attitude. Thus, utilitarianism picks out the attitude of impartial concern for the happiness and suffering of everyone, and elevates it to a special status.\textsuperscript{17} But why should it have this special status? One possible answer, we have seen, is that this attitude of impartial concern is built into the definition of what it is to act \textit{morally}. This, however, is to beg the question. It is, I have previously suggested, a tenacious definition of morality, but in any case, even if violating the utilitarian principle amounts to a rejection of morality, this simply raises the question ‘Why should I act morally?’ If everyone’s happiness and suffering are to matter to me, this can only be because I have, as a human being, the capacity to identify with others and be moved by their situation. This, as I have explained, is not to say that I should take account of other people’s happiness or suffering only when I am actually being moved by them. It is, however, to say that the consideration of others’ well-being would not give us reasons for performing this or that action unless we were, in general, beings who were capable of being moved in that way. But now the point is that the natural attitude to which the utilitarian principle appeals is just one human response among others. There can be no reason for giving it a unique status. If we are moved by a concern for other people’s happiness and suffering, we are also, I have suggested, moved by a sense of \textit{respect} for others - respect for them as \textit{agents}, committed to their own actions and projects. Then, in addition to these two quite general responses, we are moved by all the various forms of love and affection for particular individuals, by loyalties of many different kinds, as well as by resentment and hostility and the like. Finally there is the special kind of concern which we each have for our own lives. This is not to say that egoistic attitudes must take predominance over altruistic ones, but simply to say that the problem of the relations between, and possible conflicts between, oneself and others cannot be resolved

\textsuperscript{17} J.J.C. Smart says: ‘In setting up a system of normative ethics the utilitarian must appeal to some ultimate attitudes which he holds in common with those people to whom he is addressing himself. The sentiment to which he appeals is generalized benevolence, that is, the disposition to seek happiness, or at any rate, in some sense of other, good consequences, for all mankind, or perhaps for all sentient beings’ (Smart and Williams. Utilitarianism: For and Against, p. 7).
merely by mathematical and conceptual fiat, merely by incorporating one's own interests and one's own concerns into the total sum of 'the general happiness'.

Our ethical vocabulary, then, reflects this diversity of human responses and concerns, and it is a mistake to try to reduce it to one basic self-evident principle or simple set of principles. Thus, we should not approach practical moral issues by first adopting a schematic moral theory such as utilitarianism, applying it to the issues and reading off from it our practical conclusions.

Such an approach, however, what we might call 'foundationalism', does at least have the merit of adopting a critical stance towards common-sense moral assumptions. Whereas foundationalism is too restrictive, the method of moral argument which appeals to nothing deeper than common sense is excessively permissive. Many philosophical discussions of moral issues aspire to nothing more than extending to controversial cases those moral beliefs which are generally accepted as uncontroversial. Thus, they will argue that 'of course we wouldn't think it right to do x' and therefore, to be consistent, we must also think it wrong to do y. To anticipate an example to which I shall return, writers on the morality of war often take it as obvious that there is a 'right of self-defence', and from this they conclude that it is equally obvious that pacifism is mistaken and that conventional justifications for war are acceptable. However, conventional moral beliefs, including many which would be commonly regarded as uncontroversial, are bound to include a fair share of prejudices and confusions.

Utilitarians and other advocates of foundationalist theories then rightly respond that prevailing moral beliefs should not be accepted uncritically, but should be examined and questioned. With this I agree. The test of conventional beliefs should not, however, be whether they can be derived from some self-evident first principle. Rather, I suggest, we should ask whether the conventional beliefs make a proper use of the underlying evaluative concepts, and to gain a proper understanding of those concepts we must in turn identify the underlying natural human responses on which they build. In short, the test of our moral beliefs consists in asking how they are rooted in our pre-theoretical experience.

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18This is an important theme of Bernard Williams' critique of utilitarianism in ibid.
As an approach to moral reasoning this is, of course, extremely sketchy. What it might mean in practice is something I hope to demonstrate in the rest of this thesis. In the meantime I suggest that we can now see the possibility of a kind of objectivity in moral thinking. This objectivity consists in the fact that we can characterise our lives and our actions and our relations with one another by employing shared, impersonal evaluative concepts, and in the fact that these characterisations furnish objectively valid reasons for actions. At the same time, the account which I am offering does do justice to the arguments on both sides of the debate between objectivism and subjectivism. I initially noted three arguments:

1. I mentioned that moral disagreements typically give the appearance of being disagreements about what is the case. If two people disagree about what ought to be done, they cannot just agree to differ, as they could if it were simply a difference of tastes, for they will typically assume that one of them is right and the other is wrong. This is the assumption which supports objectivism. Of course it may be an illusion, but it still has to be accounted for, and I suggest that my view of moral reasoning can do so. Moral reasoning is indeed about 'what is the case', since it is a matter not of expressing feelings and attitudes, but of characterising actions and situations as being of a certain kind. And our sense of what is at stake in moral disagreements is accounted for by the fact that we are disagreeing about whether there really are impersonally valid reasons for or against performing this or that action.

2. I also mentioned that, since our moral views must lead us to act in certain ways, it might seem that they must be intimately connected with our feelings, and this appears to support the subjectivist position. There is indeed such a connection, but it is more indirect than subjectivism maintains. Our moral views are not direct expressions of our feelings. But the concepts which we employ in making moral judgements are concepts which have a practical significance for us because we are the kinds of creatures that we are, with the kinds of feelings and responses which we do have.

3. The other point which I mentioned as appearing to support subjectivism was that there might seem to be no way of resolving deep moral disagreements. On this point I must for the time being reserve judgement. I have tried to show that we can argue rationally about moral issues, and that this means not just establishing the relevant facts, but arguing
rationally about their moral significance. It remains possible, nevertheless, that such arguments may sometimes leave a residue of irresolvable disagreement. We can find out how far rational argument can take us only by giving it a try. *This I shall do by looking at the rights and wrongs of war.* At the end of the discussion I shall consider whether, and if so in what sense, rational argument still leaves us with an irreconcilable clash of opinions.
Chapter 2 - The Sanctity of Life and the Wrongness of Killing

Moral arguments about the acceptability of war are often conducted using the concept of 'violence'. Pacifists often assert that they oppose war because they reject violence as a way of settling disputes. Their opponents may then attempt to demonstrate that violence is sometimes necessary, and thence conclude that war can sometimes be justified. Unfortunately, however, 'violence' is one of the most confused terms in our moral vocabulary. The simple opposition between the two views I have just mentioned is only part of the picture. We find politicians who are unquestioningly committed to the maintenance of the country's armed forces and who unhesitatingly give orders for the use of those forces to control territory or put down a rebellion, but who also declare that 'violence is never acceptable' and resolutely condemn the 'violence' of, for instance, strikers who get into fights with the police. The assumption here seems to be that 'violence' is by definition illegal, so that actions against the established authorities can be called 'violence', but actions carried out by or ordered by the authorities cannot be so called. This narrowing of the concept is matched by a widening of it on the other side of the political argument. A connection is made between 'violence' and the 'violation' of a person's rights, and this may then be used to suggest that features of individual behaviour or social life not normally thought of as violent may nevertheless embody a kind of violence. Behaviour which is emotionally damaging or distressing may be described as 'psychological violence'. Poverty and deprivation resulting from certain kinds of social institutions may be described as 'institutionalised violence'. The suggestion would be that the normal day-to-day workings of a social system may violate the rights of members of particular social groups by restricting their options and denying them the opportunities which other groups enjoy. No overt violence may be needed to bring about this result, and yet the effect on people's lives may be just as devastating and crushing as the effect of what we normally call 'violence'. It is in order to draw attention to these hidden violations of people's rights that the phrase 'institutionalised violence' has been coined.

Further confusion is created by the everyday connotations of the term. Doing something 'violently' is equated with doing it energetically, with sudden or rapid movements. If I cannot get the tomato sauce out of the bottle by holding it upside down or shaking it gently, I may
then shake it ‘violently’. These connotations tend to colour arguments about whether damage
to property is violence. Protesters who proclaim their commitment to non-violence may
nevertheless be accused of violence if they pull down a fence outside a missile base. If they
paint slogans on a wall, the accusation of violence sounds less plausible, for of course their
physical movements are likely to be slower and more careful, but that can hardly be of great
moral significance.

I conclude that moral arguments are unlikely to be advanced one way or another if they are
conducted primarily in terms of the concept of ‘violence’. This is because people’s use of the
term is likely to be determined by the prior moral positions they have taken up, and therefore
the concept of ‘violence’ cannot itself be used to defend those positions. We have first to sort
out our moral beliefs, and only then can we determine how, if at all, the term ‘violence’ may
be useful in enabling us to make some of the moral distinctions we want to make.

Now I would suggest that when people use the term ‘violence’ for a moral critique of war,
what they see as the central moral consideration is the taking of human life. War is the
deliberate killing or maiming of human beings in vast numbers. And though the physical acts
of war, such as shooting and bombing, do not normally involve any discrimination between
the intent to kill and the intent to maim, it is, I think, the fact of killing that is morally
fundamental. It is this that makes intelligible the position of pacifism as an absolute moral
rejection of war. If pacifism is formulated as an absolute rejection of violence, it can easily be
ridiculed by drawing on the ambiguities of the term ‘violence’, so as to suggest, for instance,
that the pacifists must refuse even to parry a blow or pin down an assailant.19 What the
pacifists really object to is killing and proactive violence, and s/he typically maintains that
nothing which might be achieved by war can justify the massive taking of human life. Of
course there are other evils of war: the wholesale disruption of civil life, the laying waste of
the land, the destruction of buildings and cities and works of art and the enormous
consumption of resources and use of human talents. If these were the fundamental moral
concerns, however, the question of war would belong in the same category as moral concern
about such things as environmental destruction. Though there are indeed connections with
such issues, the moral problem of war belongs essentially with other dilemmas concerning the taking of human life.

I suggest that in thinking about the rights and wrongs of war we take pacifism as our starting-point, for the pacifist’s position draws attention to the radical disparity within conventional moral thinking, that I mentioned at the beginning of the previous chapter. There is normally taken to be a very strong moral presumption against the taking of human life. Controversial cases, such as abortion or euthanasia or the death penalty, are controversial because there is disagreement about whether there are special reasons in these cases for making an exception or for thinking that the presumption against killing does not apply here. But whereas the uncompromising rejection of abortion or of euthanasia or of the death penalty are widely held views, pacifism, the uncompromising rejection of killing in war, is the position of a small minority. Many people who are bitterly opposed to abortion, or to embryo experimentation, or the termination of the lives of severely deformed babies, exhibit no such opposition to war, although it claims many more lives. Even those who oppose particular wars, or particular military policies such as nuclear deterrence, are rarely Pacifists. Most people in our society accept war and the preparation for war as an inevitable, if regrettable, feature of social life. Often even the regret is muted; wars have been heralded as glorious, and the successful completion of a war has often been the occasion for celebration. No one, I think, whatever their views on abortion, would propose putting out flags to celebrate the successful completion of abortions. So war seems to be an anomaly that there is moral disagreement about, but the centre of gravity in such disagreements appears to be located at quite a different point from its location in other comparable disagreements involving the taking of life.

Why is this? How can it be understood? Can it be justified? In this and the following chapters I shall try to answer those questions. I shall first try to clarify the nature of the normal presumption against killing, and I shall then consider what special factors might affect the application of that presumption to the case of war.

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What exactly is the nature of the moral objection to the taking of human life? What are its roots in our experience? Two phrases are often used to describe the objection: the idea of a ‘right to life’, and the idea of ‘the sanctity of life’. I want first to look at each of these.

**The Right to Life**

I have already mentioned that the idea of basic moral rights is problematic. The concept of rights is essentially a social one. We enjoy rights through our occupancy of particular social positions, whether institutionalised or informal, and we can identify what rights people have by consulting the rules and conventions which define the relevant social positions. As a member of an athletics club I have rights to use certain facilities, to stand for office in the club and so on. As a citizen who is included on the electoral roll of a particular political community, I have a right to vote, and that is a right with which I am endowed by the law of my country. The idea of a ‘right to life’ is not like that. It is supposed to be a universal human right, a *moral* right, not dependent on the laws or rules of particular social institutions. Indeed, particular laws may be criticised precisely on the grounds that they fail to respect the moral right to life. How are such moral rights to be identified, then? How do we know whether we have them or not? Others besides the right to life are often claimed. Do we have a moral right to unlimited free speech? A moral right to enjoy pornography if we want to? Do we have a moral right to carry firearms, or a moral right to the fruits of our own labour? These examples are all contentious, and the questions cannot be answered simply by appealing to the concept of a right.

There are no self-evident moral rights. The concept of a moral right may have a use, but it is not morally basic, and whether or not we have particular moral rights such as a right to life can be determined only by appealing to prior moral considerations. Further argument is needed; we have to go deeper, and cannot simply appeal to any supposedly self-evident truth that people have a right to life.
The Sanctity of Life

What about the idea of ‘the sanctity of life’? Does this fare any better? What is immediately striking about this phrase is that it has religious connotations. The precise nature of those connotations is, however, unclear. The intended meaning may be that life is sacred because it is created by God and is therefore not ours to destroy. The trouble with all such appeals to the purposes of an omnipotent creator, however, is that since they apply to everything in creation, morally speaking they leave everything as it is. They endorse everything and therefore tell us nothing. If indeed life is created by God, then presumably also diseases, earthquakes, droughts, old age and even our human propensities to murder are likewise the product of divine creation. So, from the fact that life is created by God, it does not follow that the destruction of life is wrong.

The deeper interpretation of ‘the sanctity of life’ would see it not as a principle to be derived from religious beliefs about divine purposes or divine commands, but as itself the direct expression of some fundamental religious impulse, such as the response of ‘reverence’ or ‘awe’ which I mentioned in the previous chapter. Religious feelings of this kind are the source of, rather than the product of, more formal religious beliefs. Thus, talk of ‘the sanctity of life’ could be seen as a way of articulating our natural human response to the wonder and mystery of life, and as an indication that such a response properly involves a moral refusal to take life.

It is doubtful, however, whether such a moral principle accurately reflects our underlying responses. If the sanctity of life really does mean a principled refusal to take life, because life as such is sacred, then consider what this would entail in practice. We should have to regard it as wrong to kill any living thing, not just any human being, but any animal or plant. It would be wrong not only to kill animals for food, which vegetarians would of course accept, but also to harvest crops if this involves killing the plants. It would be wrong to kill weeds in the garden, or to destroy germs to prevent diseases or even to walk for fear of unknowingly crushing organisms under your feet. It is possible to live in such a way, and some people have tried to do so. It can, moreover, be made more plausible as a way of life if interpreted to allow that the wrongness of killing can sometimes be overridden by other considerations. This
would mean that the killing of a weed or a germ could sometimes on balance be justified, perhaps to preserve another living thing, but would still be a moral loss. Such a conception still remains extremely remote from most people’s moral thinking; most people would think it no loss at all to destroy a germ. That does not automatically invalidate such a moral position. I have warned against appealing uncritically to conventional moral beliefs. Nevertheless this literal interpretation of ‘the sanctity of life’ is so distant from most moral thinking that we should at least wonder whether it properly reflects our underlying moral experience.

Those who are committed to the idea of ‘the sanctity of life’ might well, at this point, reply that what they really seek to maintain is ‘the sanctity of human life’. Such a position would indeed be much more in keeping with prevailing moral attitudes, but again that does not automatically make it right, and the position raises its own problems. It should prompt us to ask, what is so special about human life? If we maintain the sanctity of human life simply because it is human, this looks like an arbitrary bias in favour of our own species. Such a stance has been labeled ‘speciesism’, implying a comparison with racism and sexism.\(^{20}\) Just as the extreme form of racism or sexism would consist in believing that whites should be favoured just because they are whites, or that the interests of men should take precedence over those of women for no other reason than that they are the interests of men, so, it is suggested, giving a special status to human life not because it is life, but because it is human constitutes an equally arbitrary piece of discrimination. The reply might be that as human beings we just do respond to fellow humans in a way different from how we respond to other living things, and that this brute fact is the basis for our giving a special status to human life. In the end I shall, indeed, maintain a position not so very different from that. Still, something more needs to be said. What exactly is it that we are responding to when we respond in a special way to another human being? What is so special about human life?

An initially plausible answer would be that human beings possess distinctive qualities which mark them off from other species. What might these be? The favoured candidates are likely to be certain mental qualities: perhaps that human beings alone possess rationality, or that they alone possess self-consciousness in the strong sense that, unlike other animals, they are

capable of forming some overall conception of their lives, seeing themselves as beings with a past and a future, assessing the past and making plans for the future.

Whether human beings are the only living things to possess these qualities is a matter for debate. It may be that the intellectual capacities of some animal species, such as chimpanzees or gorillas or dolphins, are greater than generally recognised. Still, there is no doubt that qualities of this kind distinguish human beings from most other animals, and if species such as chimpanzees come on the human side of the divide, the ‘sanctity of life’ principle could apply to them while still avoiding the paradoxical implication of embracing every form of life equally. What is more problematic is that the qualities in question are not possessed by all human beings. A new-born baby is certainly not yet rational or as self-conscious as a more mature human. Indeed, its level of awareness and its capacity for intelligent behaviour are a good deal lower than that of the average bird or rodent. There are also human beings who are so severely handicapped mentally that they can be said to possess little or no rationality or self-consciousness.

One might simply accept this implication and conclude that the principle of the sanctity of human life does not apply to babies or certain categories of mentally defective humans. Such a conclusion is not as grotesque and callous as it may sound. It does not mean that we can simply slaughter babies and the mentally handicapped without compunction. There remain very strong reasons of an indirect kind for not killing these human beings. Most obviously, to do so would normally cause unbearable grief for the parents and others who are emotionally close to the human being in question, and these considerations remain relevant even though ‘the sanctity of human life’ does not apply. Even so, we may feel uneasy about an interpretation of the sanctity of human life which excludes large classes of human lives in this way.

Another move which might be made, at least to explain the wrongness of killing human infants, is to bring in the idea of ‘potentiality’. Babies are not yet rational or self-conscious, it may be said, but they are potentially so, and that is why it is as wrong to kill them as to kill an adult human being.
This idea of ‘potentiality’ is a popular one, but it is by no means straightforward. In due course I shall suggest that it does indeed have a role to play in our moral thinking, but for the moment I want to indicate the difficulties. The concept has been invoked not only to explain the wrongness of killing human infants, but also, by moral critics of abortion, to argue that a human foetus is likewise a potential rational and self-conscious person and should not therefore be destroyed. Others have countered this move with the argument that if the status of a foetus is sacrosanct because of its potentiality, then by the same token a human ovum has the potentiality to develop into a human being if it is fertilised by a sperm and would therefore have to be treated with the same respect as a human foetus and a human infant - a conclusion which appears manifestly absurd. ‘That’s not the same’, the anti-abortionist might reply - but what this shows is that those who want to invoke the idea of ‘potentiality’ owe us an account of what is meant by it. If we are to say that a baby is a potential rational and self-conscious being, must we then say the same of a foetus? And if we do, are we then also committed to saying that an unfertilised ovum is a potential rational and self-conscious being? In all these cases there is clearly some kind of causal continuity, but what more, if anything, is needed for an \( x \) to be a potential \( y \)?

A further reason why the idea of ‘potentiality’ needs careful handling is that, even if we can agree that \( x \) is a potential \( y \), it is not clear what moral implications, if any, this should have for our treatment of \( x \). Why should we base our moral treatment of any being on what it could become rather than on what it is? To take an example used by Peter Singer:

Prince Charles is a potential King of England, but he does not now have the rights of a King. Why should a potential person have the rights of a person?\(^{21}\)

Surely the moral status of anyone or anything should depend on what it is now, not on the fact that it will be or could be a different kind of being in the future. I shall come back to the idea of ‘potentiality’ later, but for the moment it is enough to note that it offers no easy solution to the problems with which we are at present concerned.

\(^{21}\) P. Singer op cit., p. 120.
Utilitarian Objections to Killing

We have seen that if the idea of the sanctity of life is understood literally, it seems to put all life on a par and make it wrong to kill any living thing. If we modify our position to that of the sanctity of human life, we have to explain what is morally special about human life, and this must consist in something more than its simply being human. Qualities such as rationality and self-consciousness may seem suitable candidates, but the problem is that these qualities are not possessed by two large groups of human beings, infants and those who are severely mentally defective. The concept of ‘potentiality’ might help to explain why ‘the sanctity of human life’ still applies to human infants, but we have now seen that it involves problems of its own.

At this point we might try a new approach. If qualities such as rationality and self-consciousness are too restrictive, perhaps we should focus on qualities which really are possessed by all human beings. A baby does not possess a sophisticated intelligence or self-awareness, but it can experience pleasure and pain, it can be happy and can suffer. Is that not sufficient reason why we should be concerned for it? Of course, these capacities for pleasure or happiness or suffering, capacities which have been summed up in the term ‘sentience’, are not unique to humans. Being broad enough to be possessed by all humans, they are also possessed by many other animal species (though not by plants). Perhaps, however, we should simply acknowledge that implication and accept that our moral concern should extend to all living things which experience pleasure or suffering.

This is indeed a new approach, and it could be suggested that we are now looking at something quite different from the idea of the sanctity of life. If these are the qualities which set the limits of moral concern, then perhaps what we should really be aiming at is not the protection of life as such, but the promotion of pleasure and happiness and the prevention of pain and suffering. This is in effect the moral perspective which I have previously labeled ‘utilitarian’. It, and the idea of ‘the sanctity of life’, represent two distinct approaches to questions about the taking of life. This is apparent from the way in which arguments about controversial cases typically go. Take the case of abortion. In part, of course, disagreement here is about whether a human embryo really is a human ‘life’. That, however, is not the only
point at issue. Many people who argue for the acceptability of abortion would feel that the important questions are about the likely effects on the future well-being of the woman if she is forced to go through with the pregnancy, and about the future happiness or unhappiness of the child who will be brought into the world if the foetus is not aborted. They consider that whether an abortion would be justified in a particular case depends on the concrete benefits or harms which would follow, and they are, I think, likely to be impatient with the question whether the embryo is a human life, not so much because they consider that the answer is obvious, but because they think that it is not the important question. Consider again the question of infant euthanasia and the view that we should not prolong the lives of babies born with defects, such as severe spina bifida or severe Down's syndrome. Those who take this view are likely to do so from a consideration of the suffering which would otherwise ensue for the child and the parents. They will be opposed by those who insist that the sanctity of human life does not permit it to be destroyed for such reasons. Here then we have a contrast between two broad approaches to such issues, approaches which are naturally and spontaneously adopted by many people and are not just the product of philosophical theorising.

It can hardly be denied that considerations of a broadly utilitarian kind should play *some* role in our moral thinking. The harms and benefits that comprise the experiencing of suffering or happiness can hardly be denied moral relevance. It can hardly be denied also that some dilemmas are properly dealt with by weighing one set of harms or benefits against another. Consider a family dispute, where one child is revising for a very important examination the next day and the other child wants to play her stereo at full volume. Over an extended period some fair apportionment of time to the two preferences could no doubt be fixed, but on this particular occasion the lesser interests just have to be outweighed by the greater, even though the child denied her decibels will be temporarily miserable as a result.

Utilitarian thinking, then, is sometimes appropriate. It does not follow, however, that it is always the only appropriate form of moral thinking. In particular, those who are committed to the idea of the sanctity of life will deny that it is the only or even the principal way of thinking about the rightness or wrongness of killing. Utilitarianism in the strict sense, then, is the view that *all* moral considerations ultimately come down to utilitarian ones. The rightness or wrongness of any action, whether an act of killing or anything else, is to be determined by
assessing the amount of happiness or suffering that the action is expected to lead to or will prevent. And, in any situation, the right action to perform will be the one that will produce more happiness overall than any alternative, or, if no available action will produce a net gain in happiness, then that which will lead to the least amount of suffering. Here is a distinctive approach to moral questions. It purports to provide a key to unlock our moral difficulties. In the light of our problems with the idea of the sanctity of life, let us see whether utilitarianism can provide a more satisfactory account of when and why it is wrong to kill.

There are obvious utilitarian reasons why it will usually be wrong to kill someone. In most cases it will create terrible grief and suffering for the family and/or friends who suffer the bereavement. That will usually be an overwhelming reason against taking the life. The death will often also be a loss to the wider society, depriving others of the benefits and services that the dead person could have given. These considerations do not always apply. Some people live isolated lives and their death appears to be no great loss to anyone. More to the point, these considerations do not yet account for the idea that killing someone is a wrong done to the person who is killed, not just to those who are bereaved. This too, however, admits of a utilitarian explanation. For a start, killing someone usually involves inflicting considerable pain on the victim. It may not do so - some deaths are painless and/or quick - but more important is the fact that to kill someone is to deprive them of all the future happiness that they could have experienced. Most people’s lives presumably contain on balance more happiness than suffering, for otherwise they would not be worth living. This loss of happiness is therefore, for the utilitarian, the principal reason why it is normally wrong to kill someone. Normally, but not always. The utilitarian is bound to recognise exceptions. These will include various kinds of mercy-killing, perhaps of severely handicapped infants in the cases I have already mentioned, or of the old or the sick when it is a kindness to them, and based on their request, to put them out of their misery. There will also be cases where killing people would indeed deprive them of that happiness and create grief for others, but where the utilitarian would justify it on the grounds that it will overall do more to prevent suffering or promote happiness for people in general. A utilitarian case for killing in war would have to take some such form. Thus, utilitarians cannot be absolutist about the taking of life, that is to say, they cannot maintain that killing is always, without exception, automatically ruled out. Whether killing is wrong depends on the circumstances. Advocates of the sanctity of life, on the other
hand, could be absolutists, but they do not have to be. They could accept that there are exceptional cases where the sanctity of life is outweighed by other considerations that are very strong indeed. Nevertheless they are more likely to take an absolutist position, and are at any rate bound to recognise a strong moral presumption against killing that it is very difficult to overrule, whereas for the utilitarian the presumption against killing is merely a general rule stating that killing is likely to have bad consequences in most cases.

What are we to make of the utilitarian account? Consider the following example from Dostoevsky’s novel *Crime and Punishment*. Raskolnikov is an impoverished law student. He has noble aspirations. He wants to complete his studies so that he can serve his fellows, and so that he can better the lives of his mother and his sister, who are devoted to him. Raskolnikov has previously borrowed money from a money-lender, an old woman whose life is a misery. The only person who could be said to be in any sense close to her is her feeble-minded sister, who lives with her and whom she torments. Raskolnikov decides to kill her and take her money so that he can complete his studies.

His decision is, in part, formulated in utilitarian terms, and from an extreme point of view it is difficult to see what is wrong with it. The old money-lender would have got no pleasure from her life, no one will miss her or mourn her passing and Raskolnikov will put her money to much better use than she would have done. As it turns out, he blunders, kills the simple-minded

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22Raskolnikov’s thoughts take shape when he overhears a conversation in a restaurant between a student and an army officer. The student says that he is only joking but, playing with the argument simply for the fun of it, he puts the case for killing the old woman: ‘on the one hand, we have a stupid, senseless, worthless, wicked and decrepit old hag, who is of no use to anybody and who actually does harm to everybody, a creature who does not know herself what she is living for and who will be dead soon, anyway ... On the other hand, we have a large number of young and promising people who are going to rack and ruin without anyone lifting a finger to help them, and there are thousands of them all over the place. Now, a hundred or even a thousand of them could be set on the road to success and helped at the very start of their careers on that old woman’s money, which is to go to a monastery. Hundreds, perhaps thousands of lives could be saved, dozens of families could be rescued from a life of poverty, from decay and ruin, from vice and hospitals for venereal diseases, and all with her money. Kill her, take her money, and with its help devote yourself to the service of humanity and the good of all. Well, don’t you think that one little crime could be expiated and wiped out by thousands of good deeds? For one life you will save thousands of lives from corruption and decay. One death in exchange for a hundred lives, why, it’s a simple sum in arithmetic! And, when you come to think of it, what does the life of a sickly, wicked old hag amount to when weighed in the scales of the general good of mankind?’ (Fyodor Dostoyevsky, *Crime and Punishment*, trans. David Magarshack (Harmondsworth: Penguin, 1951), p.84).
sister as well, is racked by feelings of guilt, is arrested and punished. The consequences do not, therefore, in retrospect provide a utilitarian justification for the murder. The proper conclusion for the utilitarian to draw, however, need not be that Raskolnikov should not have committed the murder, but only that he should have been more careful and not given way to irrational guilt-feelings. Admittedly the utilitarian picture may be more complicated than that. There are long-term consequences to consider. If, in order to reap the benefits of the murder, Raskolnikov would have to resist any inclination to feel remorse, he might thereby turn himself into a ruthless and callous criminal, one who is prepared to kill on other occasions where the utilitarian justification is absent. On the other hand, he might not; he might be able to remain a clear-headed utilitarian who can distinguish between cases like this one and other cases where killing will have no such benefits for others. In any case, to reason in this way is to concede the essential point, that the utilitarian can have no objection to killing in this particular situation; utilitarian arguments against killing the old woman will have to refer to the consequences for other situations.

What does the example show, then? Certainly it shows that utilitarianism may conflict with conventional moral views, but we should again remember that that is not by itself a sufficient criticism. Convention may be wrong and utilitarianism may be right. The deeper criticism is the one which I made in the previous chapter. Utilitarianism is too simple. Its plausibility rests on certain features of our moral experience and our basic human responses, but if these are elevated into a complete moral theory that claims to be all-embracing, then whole areas of our moral experience will simply have been left out. What then is missing from the utilitarian perception of the Raskolnikov example? One answer would of course be: the sanctity of life. There are other things to be said, however, and one important way of looking at it would be this: whatever Raskolnikov may think about the advantages of killing the old woman, it is not his decision to make. It is her life, not his, and therefore he cannot take it upon himself to dispose of her life for however worthy an end.
Respect for Autonomy

This dimension of the situation has been referred to by some writers as the requirement of respect for autonomy.\footnote{Jonathan Glover, \textit{Causing Death and Saving Lives}, (Harmondsworth: Penguin, 1977), pp. 74ff. Cf. Singer, \textit{Practical Ethics}, pp. 83-4.} By ‘autonomy’ is here meant ‘the capacity to choose, to make and act on one’s own decisions’.\footnote{Singer, \textit{Practical Ethics}, p. 83.} Most people want to go on living. To kill them, against their will, represents a failure to respect their autonomy. This is therefore a fundamental reason why it is normally wrong to take human life. It will not always apply. Sometimes people may decide that they wish to end their lives. Their autonomy will then be respected by accepting their wish to die, not by frustrating it, and in this way one could in principle justify acts of suicide or voluntary euthanasia. Here the contrast with the idea of the sanctity of life is apparent. From the latter point of view any act of terminating a life is, as such, wrong, even if the life is one’s own, and hence suicide or voluntary euthanasia could not be justified.

It is equally important to recognise the contrast with utilitarian attitudes to the taking of life. From a utilitarian point of view one could, in principle, justify not only voluntary but also involuntary euthanasia, that is, taking someone’s life against their own wishes, on the grounds that it will ease their death and be kinder to them to do so. In practice it would be very difficult to come up with such a justification; a utilitarian would have to take full account of the danger of misjudging another person’s interests, as well as the fears and insecurities which would be created if involuntary euthanasia were to become a general practice. Nevertheless, \textit{if} one could be certain that euthanasia against someone’s own wishes was in their own best interests, and that there would be no further harmful consequences, this would be a reason for performing such an action, whereas respect for autonomy would be a reason against it. The contrast is even clearer in cases such as the Raskolnikov example, where utilitarianism could in principle justify taking someone’s life against their wishes in order to promote other people’s interests.
We should beware of assimilating ‘respect for autonomy’ to a utilitarian way of thinking. The utilitarian might accept that autonomy is an important component of a good human life, and that therefore we should seek to promote people’s autonomy, along with other aspects of their happiness and well-being. ‘Respect for autonomy’, however, is not primarily a matter of producing as much autonomy as possible. Here I want to recall my comments in the previous chapter about ‘respect’ as a basic response to another person. I contrasted it there with an attitude such as ‘sympathy’, which involves identifying with another’s interests and seeking to promote them as though they were one’s own. Such an attitude gives rise to acts of benevolence and charity which, if generalised, add up to a utilitarian perspective. Respect, by contrast, involves a kind of distancing of oneself from the other person, not the distancing of indifference, but a recognition that others have their own choices and decisions to make, their own life to live, and that one should not try to live it for them. This use of the word ‘respect’ is not its use to indicate a sort of admiration, a looking up to someone in virtue of certain particular qualities which they possess, as when one respects someone for their athletic prowess or their intellectual distinction or their moral integrity. Rather, the kind of respect that we are talking about is that which is due to any person by virtue of their capacity to make their own choices and live their own life.

In considering the idea of ‘respect for autonomy’, then, we have taken an important step forward in understanding the wrongness of killing, a step which takes us beyond the opposition between ‘the sanctity of life’ and utilitarian considerations. We can see why it is wrong to sacrifice someone’s life for the sake of their own or others’ greater good, without being committed to according the same moral treatment to every living thing.

At this point, however, I want to introduce a doubt about the use of the word ‘autonomy’. At least as some writers have employed it, it carries strongly intellectualist connotations. To respect people’s autonomy in this strong sense is to respect their consciously formulated desires and decisions. As Jonathan Glover puts it, ‘I override your autonomy only where I take a decision on your behalf which goes against what you actually do want, not where the decision goes against what you would want if you were more knowledgeable or more
Quite consistently with this, Glover recognises that taking someone’s life does not involve overriding their autonomy if they are not capable of formulating the desire to go on living. This means, in particular, that there can be no objection of this kind to the killing of foetuses or new-born babies.

The claim that killing is directly wrong because it overrules someone’s autonomy does not apply to ... abortion or to the killing of a new-born baby. However much one may regard a new-born baby as a person, it would be absurd to suppose that it has any desire not to die, or even the concepts of being alive or dead on which such a desire depends.26

The same would be true of the killing of animals or of severely mentally defective adult humans (bear in mind, once more, that in many of these cases there may well be other kinds of reasons for not killing, such as the utilitarian consideration that killing babies will usually create devastating grief for the parents.) It is not enough to say that if a young baby could understand the choice between living and dying, it would want to go on living. It does not in fact understand that choice, therefore it does not have the desire to live, and killing it would not constitute a failure to respect the baby’s autonomy.

Granted, babies and animals may engage in behaviour which as a matter of fact keeps them alive. The baby will suck the breast or the bottle, the animal will defend itself against attack. They do not, however, perform these actions with the conscious aim of preserving their lives. To formulate that aim requires quite a sophisticated understanding. One must be able to envisage one’s own non-existence. This means being aware of oneself ‘from outside’, so to speak, as one living thing among others in a world which is independent of oneself. It requires a developed understanding of time, beyond the immediate past and the immediate future, so that one can envisage the time before one’s birth and the time after one’s death. It is quite striking that children take a long time before they can even begin to make sense of the idea of ‘what it was like before I was born’.

26Ibid., pp. 138-9.
If 'respect for autonomy' is understood as respect for people's consciously formulated desires, then, it will have similar practical implications to the position which we looked at earlier, that the lives of human beings are valuable insofar as they possess rationality and/or self-consciousness. In both cases the particular objection to killing applies only to mature human beings with developed intellectual capacities. As before, we could simply accept this implication. We could say that utilitarian considerations are usually (but not always) reasons against taking the lives of human beings and of animals which are capable of experiencing pleasure or suffering, and that, in addition, respect for people's autonomy is normally a stronger reason against taking the lives of mature human beings with a developed awareness of life and death. This is a position which some contemporary writers have taken.\textsuperscript{27} It would require a revision of conventional moral assumptions, but it is a coherent position and it has a certain plausibility. Nevertheless I think it unsatisfactory, not because it conflicts with conventional beliefs, but because this narrow interpretation of 'respect for autonomy' unduly restricts the proper range of the attitude of 'respect'. Recall the phrases which, I suggested, naturally come to mind in cases like the Raskolnikov example: 'she has her own life to live; it is her life, not his'. Our use of such phrases seems to me to point to the idea that the primary object of respect is individuals and the lives that they lead, rather than autonomy in the narrow sense. I have mentioned in chapter 1 the Kantian origin of ideas of 'respect' and 'autonomy'. In Kant's moral philosophy the relevant core concept is that of 'respect for persons' - but what is a 'person'? Modern philosophers have taken up this term and, as with the term 'autonomy', have given it a rather narrow specialised sense: not all human beings are 'persons' in this narrow sense, and to be a 'person' one must again possess the required level of rationality and self-consciousness. I would suggest that the broader concept we need is that of 'respect for life', meaning the recognition that everyone has their own life to lead. This is also the point at which we could, with justification, introduce the vocabulary of 'rights', and talk of respect for everyone's right to live their own life. I warned earlier against over-hasty appeals to the concept of rights. There are no self-evident rights, and if we want to ascribe rights to people, the justification for this must derive from more fundamental moral considerations. I now want to suggest that the concept of 'respect' may provide such a justification. The idea of

\textsuperscript{27}I think it could fairly be taken to summarise the positions of Jonathan Glover and Peter Singer. The arguments which I have considered in reaching the point in the discussion owe much to their work.
‘respect’ involves this recognition that each person has his or her own life, that others may not appropriate or destroy, and it is such a recognition that we might want to formulate by saying that each person has a ‘right to life’.

It is this idea of ‘respect for life’ that I now want to explore, the idea of a moral attitude towards human lives as such, which avoids the pitfalls of our earlier discussion of ‘the sanctity of life’ but, like it, provides a strong non-utilitarian reason against the taking of life, and is suitably linked to a broader version of the idea of ‘respect for autonomy’. Can we develop a coherent account of such a concept?

Respect for Life

I want to begin by looking at an attempt by the American philosopher James Rachels to formulate a concept of this kind. Rachels distinguishes between ‘being alive’ and ‘having a life’. The concept of ‘life’ is, he says, ambiguous between these two uses. The sense in which we can ascribe ‘life’ to all living things is what he calls the biological sense of ‘life’. He contrasts this with the biographical sense in which some living things may ‘have a life’. Not everything which is alive can be said to have a life.

Insects, while they are doubtlessly alive, do not have lives. They are too simple. They do not have the mental wherewithal to have plans, hopes, or aspirations. They cannot regret their pasts, or look forward to their futures.

Rachels also suggests that some human beings, such as someone in a permanent coma, do not have lives. He then argues that the primary moral concern should be to protect lives rather than to preserve as many living things as possible. The rule against killing is, he says, ‘a derived rule’; the point of not killing living things is to enable them to have lives. Consequently the rule against killing does not apply to living things which are not capable of having lives, including many animals and some humans.

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I find Rachels’ distinctions useful in helping to clarify a notion of ‘respect for life’ that does not extend to the inviolability of all living things. Nevertheless his account throws up some problems which we have to negotiate. He appears to imply that it is just a contingent fact that one has to be alive in order to have a life. It is surely not just coincidence that we apply the same word ‘life’ to the two concepts. Is there not a closer link than that? Do not all living things, in some sense, have a biography? Here is Rachels’ example, a potted biography of the chess champion Bobby Fischer:

Bobby Fischer was born in 1943 and grew up in New York City; he learned to play chess at age six and devoted himself single-mindedly to the game thereafter. He became the United States Champion at 14 and dropped out of high school; he won the world championship in 1972 and has been a recluse ever since. He has always suspected Russian players of trying to cheat him, and more generally, trusts almost no one. He was involved with an off-beat religious cult in California, but that ended in a public dispute. At last report, he was devoting his days to researching the theory that the world is run by an international conspiracy of Jews.  

What makes this a biography? Every living thing grows and develops over a period of time, from birth to death; this is what makes it a living thing. In that sense, every living thing has a history. Compare the following chronological story:

This oak tree began life as an acorn planted 300 years ago. Within ten years it was a strong young sapling, and after 100 years it had become a mighty oak spreading its branches across a diameter of 20 metres. Since then it has suffered various kinds of damage, most recently in the 1987 hurricane, but each time it has recovered, though often with the loss of a bough here and there, so that it now looks gnarled and lop-sided.

Why is this not a biography?

So, on the one hand, there are difficulties in establishing a distinction between ‘being alive’ and ‘having a life’. In some sense, everything that is alive has a life. On the other hand, some of Rachels’ ways of attempting to establish the distinction are in danger of making it too sharp. We have seen that he links ‘having a life’ with various mental capacities. He refers to

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30ibid., p. 25.
the having of ‘plans, hopes, or aspirations’, the ability to be aware of one’s past and one’s future. He talks of ‘a conscious life’, and by this he presumably means not just the life of a being which is conscious of its surroundings, but the life of a being which is conscious of itself as having a life, in other words, a self-conscious life. Here we seem to be back with the strong requirements of rationality and self-consciousness and the narrow sense of autonomy. The dangers of this line of thought become apparent if we note that the principal concern of Rachels’ book is the ethics of euthanasia. I have already mentioned that one kind of case where Rachels says that a person no longer has a life, and where the objection to killing therefore lapses, is the case of someone in an irreversible coma. Here are two other cases. He says of a woman suffering from Alzheimer’s disease and killed by her husband that ‘when her husband shot her, her life was already over. He was not destroying her life; it had already been destroyed by Alzheimer’s disease’. Rachels also discusses the case of a man who killed his thirteen-year-old son who ‘had suffered a brain injury at birth that left him virtually mindless, blind, mute, deformed in all four limbs, and with no control over his bladder or bowels’. Rachels says of him that ‘the tragic brain injury prevented him from ever having a life’ (though, significantly, he also says at one point that ‘his whole life was spent in a small crib’). Rachels may be right about all these cases, but they also illustrate the dangers. If ‘having a life’ is going to depend on the possession of relatively sophisticated mental capacities, and if, moreover, the possession of these is a matter of degree, the way may be open to saying of anyone who has limited intelligence, or who has little in the way of ‘plans, hopes, or aspirations’, that really s/he has no life and there is no objection to killing him/her.

The dilemma is, then, that if ‘having a life’ means having a history it seems to collapse back into being alive, and if it depends on possessing specific mental capacities it may become too sharply demarcated from being alive. However, we may perhaps be able to clarify the concept we need if we try to synthesize these two lines of thought. We want a notion of ‘respect for life’ that is respect for a life as a whole, as a continuing process of development extended over time, not just the isolated exercise of mental capacities. But what is distinctive

31 Ibid., p. 6.
32 Ibid., p. 29.
of a human life is the ability of the individual human being to shape his or her own life in his or her own individual way, and in part this does involve certain kinds of mental ability. It involves, as Rachels says, a certain degree of self-consciousness, some ability to think about the direction of one’s life, to look back on one’s past and to have hopes and aims for the future. But we are not talking here about a particularly sophisticated set of intellectual abilities. Some people think deeply about their lives. They may go in for rigorous self-examination. They may have a carefully formulated life-plan which they consistently follow. Others lurch from crisis to crisis, constantly changing their minds. Others again may drift through life, in a fairly uneventful and unexciting way, choosing a particular kind of work and life-style and family life for no other reason than that it is what is expected of them. But all of them are, in the required sense, shaping their lives, living their own lives in their own way. They all act in the way that they do by reacting to and building on past experiences, whether thoughtfully or uncritically. They are all, in that sense, engaged in a process of development, and it is a process which begins not with the acquisition of particular mental skills but, literally, at birth. With birth, experience begins, not just a series of stimuli and responses, but the building up of a picture of the world, and the ability to act in the light of that awareness and thus to exercise control over one’s environment. It is the beginning, therefore, of a process of learning, and thus of development and growth in that strong sense. The particular activities in which a new-born baby engages are not in themselves impressive or distinctive. Even after a few months the baby’s repertoire of sucking, crying, grasping and crawling leaves it in certain obvious aspects well below the level of ability of a new-born lamb or calf. The human baby’s activities have their particular significance, however, in the light of the later stages of growth and development. They are the beginning of the process which, with the gradual acquisition of self-awareness and awareness of past and future, becomes the conscious shaping of a human life. In this sense the living of one’s own life begins at birth.

I am, in a way, reintroducing here the concept of ‘potentiality’. I am saying that respect is owed to the human infant by virtue of its potential. I have previously noted the difficulties raised by the employment of this concept. In talking now about the potentiality of a human infant, I am using a strong notion of ‘potentiality’ which does not imply that we could make any comparable claims about, say, the potentiality of a human embryo. Nor am I committed to any general implication that, if an $x$ could become a $y$, we owe an $x$ the same moral treatment
as a y. We owe respect to the life of the new-born baby by virtue of what it already is, and what it is already doing. What it is doing has to be understood in the light of the later stages of the process, and in that sense we are talking about its potential. But it is already acting, learning, living its own life. In respecting it for its potential, therefore, we are respecting it for what it now is, not merely for what it will be.

The common-sense notion that life begins at birth is, then, well founded, and properly informs our moral ideas of respect for life. It is no accident that we celebrate birthdays as marking the stages of a life, and that question ‘How old are you?’ is answered in our culture by counting the time since one’s birth. There is indeed an element of convention in this and we could date our lives from the moment of conception as is done in some cultures. Nevertheless it is not pure convention. I have argued that there are good reasons why we typically think of a life as beginning with the emergence from the womb. This is, moreover, the moment of entry into the communal world, the world of shared meanings, in which the baby’s movements take on a significance as meaningful activity. It is the beginning of meaningful interaction with other human beings. We have a culturally shared notion of a normal human life-span as extending from birth through childhood and maturity to old age and death. And so we think of killing as the interruption of this process, preventing someone from living out the normal span of their life. This is reflected in our characteristic reactions of grief and mourning. A human death at any age is a loss, the removal of a unique individual life, but what is tragic is an early death. We mourn especially the death of a child, whose evident potentialities will now never be realised. We mourn especially the death of an adult cut off in his or her prime, whose life is unfinished. Behind these reactions lies the idea of the characteristic and natural shape of a human life. The details will vary from culture to culture, but the basic pattern remains the same. What is tragic about an early death is, therefore, not just that it deprives the person of a certain quantity of worthwhile experiences, but that it interrupts and frustrates their living of their own life. And killing always, to some degree or other, does that.

The concept of a human life is thus a blending of the biographical and the biological, of activity and of process. It involves the notion of a natural biological process, from birth to death, but also the notion of the activity whereby each individual gives a particular character to this natural process. The biological life is, as it were, an outline which is filled in differently
by each person. Moreover, the process is more than just a biological process. Things happen to us. We experience a succession of events which are not of our making, and which affect the course of our lives, but they do so only insofar as we respond to them, giving them a significance as obstacles or opportunities and building them into an intelligible history. A life is the interaction of the active and the passive. I have talked of people ‘shaping’ their lives. The metaphor is an attempt to avoid an over-intellectualist way of putting it. Leading a life is not necessarily a matter of following out a carefully formulated ‘life-plan’. ‘Shaping’ suggests an analogy with artistic activity: creatively working on a naturally-given material in such a way as to give a sense and a significance to it. The analogy is useful up to a point, but again has its dangers. I want to avoid suggesting that ‘living a life’ is a matter of meeting certain criteria of success, as though only those who measure up to a certain intellectual or artistic standard can qualify. I am almost inclined to say that ‘living one’s life’, in the sense which I am concerned to define, is something which everyone does - but there are exceptions. Like Rachels, I think that there are some human beings, such as those suffering from massive brain damage, who are incapable of even that minimal level of mental activity that counts as the leading of a life, and I shall say a little more about such cases in a moment. Beyond that minimal threshold, however, ‘living one’s life’ is something which every human being does.

I conclude that we can indeed formulate an adequate notion of ‘respect for life’ that is distinct from that of ‘the sanctity of life’ and does not lapse into the idea of a prohibition on the destruction of any living thing. ‘Respect for life’ means respect for people’s right to live their own lives. ‘Living one’s own life’ means shaping one’s life through one’s activities, from birth, over time, accumulating experiences and learning from them, making decisions for oneself in the light of these experiences and of one’s sense of one’s past, and making an intelligible pattern out of them. As applied to the developed human being, the practical implications of ‘respect for life’ will be largely similar to the implications of ‘respect for autonomy’. Emphasising that ‘this is my life’ means recognising that it is also primarily for me to decide what risks to take with my life, and whether and when to end my life. Just as ‘respect for autonomy’ was taken to imply that when someone wants to terminate his or her own life, suicide or euthanasia may become acceptable, so ‘respect for life’ will have the same implication. (A play dealing with these issues was appropriately titled Whose Life Is It
Anyway?\textsuperscript{33} Of course this does not mean that the person’s own wishes are the only consideration. Someone’s desire to end his or her own life may well affect other people, and this may well generate powerful reasons for not acting on that desire. It is not just one’s own life that is at stake. What we can say, however, is that respect for life does not rule out the taking of life if someone genuinely wishes to end their own life.

‘Respect for life’ and ‘respect for autonomy’ may, then, imply the same thing in some contexts. Nevertheless I want to maintain that the concept of ‘respect for life’ provides the more satisfactory account of the wrongness of killing. In practical terms we have seen that it does justice to our sense of the wrongness of killing infants: they may not be able to formulate the desire to go on living, but they have begun to live their own lives. More fundamentally, if the wrongness of killing is derived from respect for autonomy, this makes it sound as though the desire to live is just one desire among others. The suggestion seems to be that, other things being equal, respect for autonomy requires us not to frustrate people’s desires, and that therefore if people choose to go on living we should not frustrate that particular choice. Killing someone would, to that extent, be on a par with frustrating their choice to have a cigarette or a cream bun, and the seriousness of the violation of autonomy would depend simply on the strength of the desire. Deriving respect for life from respect for autonomy in this way seems to me to get things precisely the wrong way round. If we take individual desires in isolation, it becomes quite unclear why they are a proper object of respect. Why should I respect someone’s desire for a cream bun? If we are to respect people’s desires, it must be because of the nature of the desires. Particular desires derive their importance from their contexts and consequences. A desire for a cream bun is, as it stands, a trivial desire. A desire to pursue a certain career, or to practise a certain religion, is likely to be much more central to a person’s life, and the respect it calls for is correspondingly greater. This suggests that we respect particular desires not simply because they are desires, but because of their importance for the person who has them, taking into account their effects on others and that the primary object of respect is life itself. Of course a desire to go on living would be as fundamental a desire as any, but even if a person does not formulate this as a conscious and explicit desire, his or her life is still owed respect. I should add that to focus on isolated individual desires is,


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in any case, an unsatisfactory narrowing of the concept of ‘autonomy’. ‘Autonomy’ itself is better understood as the ability to control one’s own life, and in that case ‘respect for autonomy’ comes closer to the idea of ‘respect for life’ as I have presented it.

**Marginal Cases**

A recurrent problem with the various moral concepts we have been considering in this chapter is the problem of boundaries. Where do we draw the line around those beings whose lives it is wrong to destroy? We saw that ‘the sanctity of life’, if taken literally, implies too wide a boundary to be plausible, embracing all living things. If the concept is narrowed to ‘the sanctity of human life’, this is, as it stands, arbitrarily narrow, since it offers no reason other than mere assertion for distinguishing between one species and others. ‘Respect for autonomy’, in the form in which we initially encountered it, draws the boundaries even more narrowly. It constitutes a reason against killing only those beings who are sufficiently self-conscious to understand what it would be for them to die or to continue living, and who are therefore able to formulate the relevant desires. Utilitarian considerations apply in principle to any being who is capable of experiencing pleasure or suffering, but whether they provide a reason for not killing such a being will depend on the particular case and the likely prospects of pleasure or suffering. What then are the boundaries implied by the concept of ‘respect for life’ as I have interpreted it? What are we to say of the various marginal cases which have emerged as problematic - new-born babies, foetuses, severely defective human beings, those who no longer want to go on living, non-human animals and so on?

The first thing to be said is that these are indeed marginal cases. The paradigm case where respect for life is appropriate is as a response to beings who are capable of shaping their own lives in the light of their past experience and their awareness of future possibilities. I have said that almost all human beings fall into this category. Nevertheless the description does not establish firm boundaries. There is no sharp line between beings who do and beings who do not possess such a capability. As we move away from the paradigm case, the task becomes one of assessing the extent to which the marginal cases match the paradigm, looking for similarities and differences. Perhaps the only firm conclusion we can reach may be that a
particular case really is borderline, and then we have to find the moral response appropriate to that conclusion. So, for instance, the one moral view about the problem of abortion that seems to me to be undeniably mistaken is the one that says that there is no problem. This view may come from those who say that a foetus at any stage of its development is just obviously a human life eliciting precisely the same moral response as any other human being. It may equally come from those who say that at no stage of its development does the foetus elicit anything like the same moral response as a human life, and that therefore there are no moral grounds for any hesitation at all about destroying it. To both versions I want to say that abortion is a borderline case.

I have argued previously that the proper focus of respect for life is a life as a whole. The truism that life begins at birth does mark a morally significant boundary. Respect is due as much to the life of the new-born baby as to that of the adult human being. I referred here to a strong notion of potentiality: we respond to the baby in the light of our knowledge of what it will become, but that knowledge also entitles us to say that the baby has already started living its own life, acting in the world and learning from experience in ways which will increasingly enable it consciously to direct its life. The foetus is different, and abortion is different from infanticide. That, however, is not the end of the matter. It cannot be irrelevant that, as the foetus grows, it comes to look more and more like the new-born baby, and that our knowledge of this makes it increasingly easier for us to respond to it accordingly. Of course, it is not just a matter of how it looks. An extremely life-like plastic doll, which looked just like a baby, would not elicit the same response from us as a baby once we realised that it was just a doll. What is relevant in the case of the developed foetus is not just that it looks increasingly like a baby but that it is on the way to becoming one. This is what I have called the weaker notion of potentiality, and I have acknowledged that, from the fact that \( x \) will become \( y \), it does not follow that \( x \) should be treated in the same way as \( y \). Nevertheless, when the knowledge that a developed foetus is on the way to becoming a baby is combined with the fact that it looks increasingly like one, this is bound to affect our response to it. It may be said that this is just an emotional reaction and should not be allowed to determine our moral beliefs. However, as I argued in the previous chapter, our moral beliefs, though not identical with them, are in the end grounded in the emotional responses which are natural to us as human beings. An emotional response may be inappropriate or misguided in a particular case, if for instance it
involves false beliefs about the object of the response. If our reaction to the developed foetus stems from our attributing to it thoughts such as 'I'm really looking forward to being born and getting on with my life', then of course our response is misguided. But insofar as the foetus really does to some extent share some of the features of a living human being, and insofar as this leads us to respond to it in something like the way in which we respond to a living human being, this must have a moral significance.

To an extent, then, I agree with those who see the abortion issue as a matter of dates and time-limits. A 28-week foetus is more like a living human being than is a 14-week foetus, and the latter is more like a living human being than is a 14-day embryo. So a late abortion is harder to justify than an early abortion, and an early abortion is harder to justify than is experimentation involving the destruction of embryos up to 14 days. One complicating factor must also be mentioned. I have defended the moral relevance of the fact that life begins at birth, with the implication that abortion is morally different from infanticide. But of course a very late abortion is also, in effect, an early birth, if the aborted foetus is capable of surviving. Thus, birth itself is not a straightforward cut-off point, and this is why a concern with 'viability' properly enters into the debate. And since the point at which a foetus becomes viable (capable of surviving outside the womb) will vary from case to case and will depend on the current state of medical technology, we are back with the moral indeterminacy of blurred boundaries.³⁴

The debate about abortion is an example of a moral controversy having to do with marginal cases. The issue of euthanasia is another. I have said that 'respect for life' as I have interpreted it has the same practical implications as 'respect for autonomy' in many cases. In particular, it implies a morally relevant distinction between voluntary and involuntary euthanasia. The right to live one's own life carries with it a right to end one's own life. Voluntary euthanasia may therefore be justified, for instance in cases where people are terminally ill, in great pain and wish to end the agony. 'Respect for life' will mean respecting their wishes. That does not settle the argument as to whether voluntary euthanasia should be made legally permissible.

³⁴It is because of this moral indeterminacy that the idea of 'a woman's right to choose' is also important. If abortion were, uncontentiously, murder, 'women's rights' arguments would be out of place; and if there were no moral objection whatever to abortion, 'women's rights' arguments would be unnecessary.
Some would argue that the dangers are too great. If voluntary euthanasia becomes legal, might people be pressured into asking for it against their own better judgement? Are there reliable ways of ensuring that people’s request for euthanasia is genuine and is a considered decision? These are difficult empirical questions, but my claim here is simply that ‘respect for life’ does not furnish a moral objection to voluntary euthanasia. Conversely, it does of course furnish a very strong objection indeed to euthanasia that is involuntary and against the person’s own expressed wishes.

The most difficult cases to consider are those which raise the possibility of non-voluntary euthanasia. This would be euthanasia to end the life of someone who was not capable either of requesting it or of refusing it. Examples where the question might arise would be severely deformed babies, or people in an irreversible coma. These are the sorts of case of which Rachels says that though the person may be alive, that person may not have a life. I mentioned in the last section the dangers of making such a distinction, but I agreed that it can sometimes be made. The clearest case would be that of someone in an irreversible coma, where there would be no possibility of further activity at all and therefore no possibility of the person continuing to live his or her own life. ‘Respect for life’ would not be an objection to killing in such a case. Something similar might be said of babies born with severe brain damage such as microcephaly or anencephaly, capable of only the most rudimentary consciousness and of performing actions only in the most limited sense. Perhaps the crucial test, as Rachels suggests at one point, is to ask whether the possibility of living or dying can matter to the person concerned.\(^3^5\) This is not to ask, from the perspective of ‘respect for autonomy’, whether the person wants to go on living, but to ask whether the possibility of living or dying matters from the point of view of the person’s life as a whole. I think we should then have to say of the severely brain-damaged infant that it does not matter to him or her, since nothing matters or ever will matter to such a human being, and therefore that killing is not a wrong done to him or her. More problematic are cases such as Rachels’ example of a woman in the advanced stages of Alzheimer’s disease.\(^3^6\) She is certainly capable of performing some identifiable and meaningful actions. These actions, however, never add up to anything

\(^3^5\) Rachels puts it as follows: ‘We may ask of Repouille’s son whether his “life” did him any good. Did it have any value from his point of view? And immediately we encounter the crucial problem that he did not have a point of view, in any but the most primitive sense’ (The End of Life, 1986) p. 30.
meaningful overall, since what she lacks is any sense of past or future and therefore any continuity in her activity. Whether she can be said to be leading a life a debatable. I shall not try to answer the question, but merely suggest that this is where the indeterminate border area is located.

Abortion and euthanasia raise questions about marginal cases among human beings. What about non-human animals? I do not want to make dogmatic assertions about the abilities of animals, a subject which arouses strong passions and tends to provoke indignant claims on behalf of people’s favourite cat or dog, but I doubt whether most animal species could be described as capable of ‘shaping their lives’ in any very strong sense. Most animal behaviour is a response to an immediate situation, whereas ‘living one’s own life’ in the sense which I have discussed above involves having some awareness of one’s own past and one’s own future, and hence having a sense of one’s life as a whole. I have warned against too intellectualist an interpretation of such capacities, which would confine them to the far-sighted and the single-minded. I have also stressed that respect for someone’s life is not dependent on their *success* in exercising such capacities. In referring to people’s capacity to give a shape and a sense to their lives, I am not implying that some people’s lives are too meaningless to be worthy of respect. Of course people do sometimes find their lives meaningless, lacking any shape or pattern, but that is still a statement about how they see their lives. The very fact that they experience this as a problem is itself significant. At the other extreme there are people who do not even need to raise the question of whether their lives are meaningful, since the course of their lives is already mapped out for them by their society and their cultural tradition. The fact that their lives have a clear pattern is no achievement on their part; they proceed along the stages of life’s way without even having to ask which direction to take. But any of these things can be said only of beings whose lives can have a sense for them, and I suspect that no, or almost no, non-human animal species fall into that category.

Even if ‘respect for life’ in the full sense does not extend to non-human animals, however, it does not follow that our attitude to the lives of animals should be one of moral indifference. Two further points in particular should be noted. First, I suspect that my remarks about

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36: ibid., p. 2.
abortion, the development of the foetus and its progressive approximation to the paradigm case, apply also to animals. The more that animals are, objectively, like us, the more we identify with them and extend the idea of ‘respect for life’ to include them. We see it as marginally more objectionable to kill a fly than a germ, and considerably more objectionable to kill a dog or a horse. Again the response may be that this is just a psychological fact about our feelings, and again my reply is that our moral beliefs must ultimately be grounded in such feelings.\textsuperscript{37} The second additional point to make is that even if ‘respect for life’ in the full sense is not applicable to non-human animals, there may be other reasons for not destroying animal lives. I mentioned in the previous chapter the attitude of ‘reverence’ as a response to the natural world. This seems to me to be significantly different from the attitude of ‘respect’. In particular, whereas ‘respect’ is primarily an attitude to individuals and a recognition of the uniqueness of individual lives, ‘reverence’ is, I suspect, more characteristically an attitude towards the natural world as a whole. It may underpin our recognition of the moral importance of preserving natural environments and habitats, protecting threatened species and so on, but within that context we may be more inclined to see individual animal lives as replaceable. Utilitarian considerations also may be applicable to our treatment of animals, even when ‘respect for life’ is not. Other things being equal, it is wrong to inflict suffering on animals, and this itself is enough to rule out many of the ways in which animals are currently killed.

My discussion of marginal cases may seem disappointingly inconclusive. Confronted with indeterminate boundaries, I have done very little to make them any more determinate. That, however, has not been my purpose. I have been concerned to locate the areas of indeterminacy, not to eliminate them. I want to emphasise that the existence of borderline cases does not give any support to moral subjectivism. The fact is that certain cases just are, objectively, borderline, and from the fact that in such cases we cannot give a clear answer to the question ‘What ought we to do?’ It does not follow that we can never do so. On the contrary, it is precisely because there are paradigm cases where an action would be a violation

\textsuperscript{37}Peter Singer, the philosopher who has most effectively emphasised our moral obligations to animals, criticises the view that because we have closer relationships with other humans than with animals, our moral obligations are correspondingly stronger. ‘This argument,’ he says, ‘ties morality too closely to our affections ... The question is whether our moral obligations to a being should be made to depend on our feelings in this manner’ (\textit{Practical Ethics}, p. 66). Agreed, our moral beliefs should be more than just direct expressions of our feelings, but ultimately that is what they do depend on.
of respect for life that we can say of other cases, such as the killing of an animal or a severely brain-damaged human infant, that to some extent they do and to some extent they do not approximate to the paradigm case. This does not make moral reasoning as a whole subjective, any more than the existence of the duck-billed platypus makes it a subjective matter what we count as a mammal. The trouble is that in the practical sphere, as contrasted with the theoretical, there is pressure to make the indeterminate cases more determinate. In theoretical matters we can rest content with the answer ‘Well, it is and it isn’t (a mammal, or whatever)’. In practical matters, however, when we ask the question ‘Is it wrong?’ the answer cannot be left as ‘It is and it isn’t’, since we have to make a decision one way or the other. The parents of a severely brain-damaged baby have to decide whether or not the child should live. A pregnant woman has to decide whether or not to have an abortion. There is normally no ‘third way’ which is the practical equivalent of recognising that the case is borderline. The problem is even more acute when it comes to deciding what the law should be. In law there have to be hard and fast lines, and if they cannot be discovered they have to be created. We have to decide whether abortion or euthanasia should or should not be illegal in this or that kind of case. I shall return in a later chapter to the problem of how we resolve moral dilemmas. In this thesis my concern has been to identify which cases are borderline when it comes to respect for life.

**Conclusion**

I have tried to work out a satisfactory interpretation of the principle of respect for life. I have argued that this is the most important reason why it is normally wrong to kill. I have tried to show how the principle is grounded in our natural responses to other human lives. Note that this is a case where I want to use the same term, ‘respect’, to refer both to the moral principle and to the basic human response in which it is grounded. The principle here is one which requires us to apply the natural response objectively and rationally. Having clarified what ‘respect for life’ is as a component in our range of natural human responses, we are in a position to say that these are the cases in which it is appropriate, and these are the practical implications which it has.
This still leaves open the question of how much weight it carries. For all that I have said in this chapter, it remains possible that killing is wrong for the reasons I have identified, but that this is of limited importance. The wrongness of taking life might even be of a minor kind, always relevant, but often outweighed by other considerations. To me this seems intuitively implausible. I am inclined to say that it is a moral consideration of very great weight indeed, playing a quite fundamental role in our moral thinking. I cannot prove this. I do not even know what argument I could offer to someone who doubted it. Perhaps I can only point to the fact that most people just *do* regard it in that way. The philosophical argument of this chapter could, however, be seen as giving support to that assumption in the following way. The assumption that killing is a very great wrong tends to go with the idea that killing is wrong in itself - that its wrongness is not derivative from, and dependent on, other considerations. Now that idea has, as we have seen, been questioned philosophically, and it might have turned out to be vulnerable to such questioning. I might, in this chapter, have agreed with the philosophical arguments for the view that the wrongness of killing is derivative from utilitarian considerations, or from ‘respect for autonomy’. I have not done so. I have defended the idea that killing is independently wrong, and I have argued that this idea can be coherently formulated and defended against objections. It does not follow logically that the idea has the degree of moral importance which it is commonly thought to have. The two conclusions are separable from one another. Nevertheless my philosophical discussion, if successful, could be seen as establishing that our fundamental intuitions about the wrongness of killing are ‘in good order’ as it were (whatever our disagreements about the application of them). They are not the product of confusion or muddled thinking. They are authentically grounded in those ‘primitive responses’ which, I suggested in the previous chapter, are the underpinning of all our moral understanding. To that extent we may feel confirmed in the importance which we attach to them.

I want to suggest one other way in which we might attempt to illuminate the importance of ‘respect for life’ as a moral idea, and that is by looking at its relation to our other, non-moral attitudes to death. Consider again the phenomenon of grief as a reaction to someone’s death, independent of any moral response. The death may occur from natural causes or by accident and may raise no questions about anyone’s moral responsibility for it; I am for the moment concerned simply with our response to it as a death. I think it is fair to say that grief over a
death has a unique place among our emotions. It may be grief over the loss of a loved one, or over the death of a colleague or an acquaintance, or of a person well known in public life, or it may be a response to a news report of a particularly tragic death of someone quite unknown to us - perhaps a child killed in a road accident. Each of these cases has its own special features, but common to them all is the response to that unique kind of loss which is the loss of an irreplaceable life. It is not the same as our sense of the loss of the happiness that the person could have experienced, or of the benefits that the person could have conferred on others; again those features may well be present, but they are different. Even in those cases where the life had little more to offer, and where we might see it as a merciful release, we still grieve over the death itself. The loss of life leaves an emptiness which cannot be equated with any other kind of loss. Think too of the rituals of mourning which exist in every human society, and of the evident need we have for these. Now none of this proves that we are right to attach a correspondingly great importance to the moral wrongness of killing. What I am offering here cannot be called an argument. What it suggests, however, is that the special place of such grief among our emotions, and the special importance we attach to the wrongness of killing, are all of a piece. Our moral understanding of killing and our non-moral understanding of death make up a coherent whole, and thereby reinforce one another.

I should add that although for much of this chapter I have been contrasting the moral attitude of 'respect for life' with a utilitarian perspective, in practice the two will in the vast majority of cases coincide. There will normally, as I have said, be a very strong utilitarian case against the taking of a life. In most cases the killing of a person will mean the loss of the happiness that person could have experienced, and will mean terrible suffering for others, and this will outweigh any benefits that someone else might think to derive from the killing. Normally utilitarian considerations point the same way as the attitude of 'respect for life'. Normally - but not always. There are problem cases, and killing in war may be one such case, where the two kinds of consideration sometimes pull in different directions. We therefore have to consider what to say of such conflicts. Even if the wrongness of killing carries the weight which I have ascribed to it, it does not follow that killing is always wrong. Although the taking of human life cannot be justified simply on utilitarian grounds, it remains arguable that sufficiently weighty considerations of harm and benefit might sometimes override the principle of respect for life. I shall consider these problems in the next chapter.
Chapter 3 - Killing and Letting Die as Moral and Social Issues

Absolutism and Consequentialism

The simplest and probably the commonest way of trying to justify waging war is in terms of its consequences. Particular wars are held to be justified by what they achieve. Their achievements are almost always bought at enormous cost, but sometimes, it may be said, the alternative to war is even more dire. The following judgement by the historian A.J.P. Taylor is an example of that consequentialist way of thinking:

The Second World War was fought to liberate peoples from Nazi, and to a lesser extent Japanese, tyranny. In this it succeeded, at however high a price. No one can contemplate the present state of things without acknowledging that people everywhere are happier, freer and more prosperous than they would have been if Nazi Germany and Japan had won ... It was a war justified in its aims and successful in accomplishing them. Despite all the killing and destruction that accompanied it, the Second World War was a good war.\(^{38}\)

If we were to take the view that the only relevant considerations, in assessing war or anything else, are consequentialist ones, and if we were to equate good and bad consequences with happiness and suffering, our position would be a utilitarian one. I have argued in the previous chapters that utilitarianism is an oversimplified moral theory, and in particular it fails to recognise that the wrongness of killing carries an independent moral weight. Nevertheless it is clear that the consideration of consequences must at least play an important part in our moral thinking, and we therefore have to ask what the relationship is between these two kinds of moral consideration.

One answer which has traditionally been given takes the following form: granted that consequences must play a substantial role in our moral thinking, there are nevertheless also certain absolute moral principles which we ought to accept, principles which specify that certain kinds of actions are always right or wrong, whatever the consequences. The term

‘absolutism’ is used to refer to the view that there are absolute moral principles. What the content of these absolute principles might be is a further question, and different versions of absolutism would give different answers. ‘The taking of human life is always wrong’ would be one candidate for an absolute principle, and the acceptance of it would commit one to absolute pacifism. It is not, however, the only candidate. In moral debates about war and other life-or-death dilemmas, the traditional absolutist position has taken the form of a different principle: ‘It is always wrong to kill innocent human beings’. The precise interpretation of ‘innocent’ is very much a matter for discussion, and I shall discuss it in chapter 5. Traditionally it has been taken to allow the possibility that killing in war is permissible, since enemy combatants are not in the relevant sense innocent. It might also allow the killing of individuals in self-defence, and the killing of criminals as a punishment. This version of absolutism has been prominent within the Christian tradition, and especially in the moral doctrine of the Roman Catholic Church. Philosophical discussion of absolutism has also tended to focus on this particular example of a possible absolute principle. The general question, however, is whether any absolute moral principles can be maintained.

We must be clear just how strong a claim is being made by an absolute principle. We should distinguish it from claims which might be made on consequentialist grounds that specific kinds of actions ought never to be performed, because performing them is always likely to have worse consequences on balance than refraining from performing them. Consider for example the difference between absolutist pacifism and consequentialist pacifism. One could be a pacifist on consequentialist grounds, taking the view that the disastrous consequences of war are always likely to outweigh anything positive which might be achieved. Such a position, however, must always be provisional, always open to revision in the light of new cases of new evidence about consequences. Someone who had hitherto been a consequentialist pacifist might, for example, have said in 1939: ‘Confronted with the historical record, I have until now held the view that wars never achieve sufficient good to justify the enormous moral price that has to be paid, but we now face, in Nazism, a quite unprecedentedly evil regime, and even the terrors of war are likely to be outweighed by the horrors of allowing this regime to continue’. That person’s provisional commitment to pacifism would then have to be revised in the light of the new circumstances. I am not saying that the consequentialist pacifist would have to abandon his or her pacifism in this particular case. The judgement might go the other
way. The point is, however, that consequentialist pacifism, and any general moral principle based on beliefs about likely consequences, must always be open to possible revision of this kind.

An absolutist position, then, is stronger than a consequentialist position, which says that certain kinds of actions are always likely to be ruled our by their bad consequences. Absolutism is also stronger than the position which I reached at the end of the previous chapter. I suggested there that the wrongness of killing is not just a matter of its bad consequences; the idea of 'respect for life' carries an independent moral weight, and it seems plausible to say that that weight is very great indeed. This, however, falls short of an absolutist formulation. It leaves open the possibility that though killing is in itself wrong, its wrongness could in extreme cases be overridden by sufficiently weighty consequences. In contrast, someone who is an absolutist about killing would say that taking a life is always wrong, **whatever the consequences**, and its wrongness can never be overridden by other considerations.

We therefore have three general positions:

(a) the consequentialist position that the rightness or wrongness of actions is solely a matter of the overall goodness or badness of their consequences. (Utilitarianism is one version of consequentialism, adding that good and bad consequences are to be identified with happiness and suffering.)

(b) The view that certain kinds of action are *intrinsically* right or wrong, that is, right or wrong because of the nature of the action itself and not just because of its consequences.

(c) The view that certain kinds of action are not just intrinsically wrong, but *absolutely* wrong, always wrong whatever the consequences.

It may seem that position (b) is an unstable one. In distinguishing it from absolutism, we allow the possibility that the independent wrongness of actions can sometimes be overridden by
consequences. Does this not mean that in any particular case we shall always have to take account of the consequences of the action, and does this not then collapse into consequentialism? I hope to show that this intermediate position, precarious though it appears, is nevertheless defensible. It is the position which was reached at the end of the previous chapter, and the conclusion of this chapter will be to endorse it. My arguments towards that conclusion will, however, proceed by looking at the debate between the more extreme positions of consequentialism and absolutism. I shall consider how consequentialists would criticise the absolutist position, and then discuss some of the traditional defences of absolutism against such criticisms.

A general consequentialist argument against absolutism is likely to take the following form. In assessing actions, what we are concerned with is surely what difference they make in the world. What is wrong with killing, for instance, is surely the fact that people end up dead. In that case, however, we have to recognise that in some situations killing a person may be the only way of preventing even more deaths. Suppose, for instance, that a man is carrying a highly contagious and fatal disease for which there is no treatment or cure, and that killing him immediately would seem to be the only way to prevent thousands or even millions of other people from contracting the disease and dying. If our concern is to prevent deaths, then we ought surely to kill the one person on the grounds that one death (especially if it is the killing of someone who will in any case die soon) is a lesser evil than thousands of deaths. Once we have made that concession, however, and allowed that killing may be necessary in order to prevent even more deaths, it would seem that to be consistent we should also allow for the possibility that killing might be necessary in order to prevent equally negative kinds of bad consequences. Suppose that, to modify our previous example, the disease in question is not fatal, but that those who contract it will go blind, be permanently crippled and suffer excruciating pain for the rest of their lives. Might it not then be legitimate to kill the one person in order to prevent such appalling suffering for thousands or millions of others? I have put the argument in terms of killing (and will continue with that case), but a similar consequentialist criticism could be made of any candidate for an absolute principle. If the significance of our actions is that they make a difference in the world, that they bring about certain effects, then it is surely by their effects that we should judge them.
Acts and Omissions

That, then, is a general argument against absolutism. Are there any ways to rebut it? One way would be to appeal to what has come to be called, in recent philosophical writing, the ‘acts and omissions doctrine’. This is the view that there is a morally important difference between doing something and allowing something to happen. The doctrine states that even though a certain kind of action is wrong, allowing an identical set of consequences to occur is not necessarily wrong. Killing, for example, and allowing someone to die are not morally equivalent, although each has the consequence that the person dies. Letting someone die is not necessarily as bad as killing someone. If we were to make use of the distinction between acts and omissions in this way, we could consistently maintain that killing people is always wrong. To the objection that a refusal to kill may result in even more deaths, we could reply that the refusal to kill would then be a case of letting people die, and this is not absolutely prohibited, whereas killing is.

Note that the claim is not merely that there is a difference between acts and omissions - this would be a trivial claim - but that the difference is morally important. On the other hand, it is not the implausible claim that there is nothing wrong with failing to prevent a death. Clearly there are occasions when we ought to act to prevent someone from dying, and a failure to do so would be wrong. The question is whether the wrongness of letting someone die is on a par with the wrongness of killing.

There does seem to be a certain plausibility in making a moral distinction here. Compare two examples. I mentioned in the previous chapter the example of Raskolnikov in Dostoevsky’s Crime and Punishment, who kills an old woman to take her money. Let us now imagine a partly parallel example. Vokinloksar is also a young law student. He is struggling to complete his studies on a meagre grant, but is worried that he will have to give up his course in order to get a job and support his mother and sister. Suddenly he received a completely unexpected legacy of $100,000 from a distant relative. However, his good luck brings publicity, and a few days later he receives a letter from an old woman saying that $100,000 is exactly the sum she needs to pay for heart surgery, without which she will die. Will he pay for her? He refuses, and she dies.
Let us suppose that all the relevant circumstances and consequences in the two cases are the same, except that Raskolnikov kills an old woman and Vokinloksar lets an old woman die. Is the failure to save a life, in the one case, morally on a par with the act of killing in the other? One may object that the consequences never can be the same. An act of murder will always have further undesirable consequences. It will contribute to a general atmosphere of insecurity. It will either produce agonising feelings of guilt in the murderer, or will so corrupt his character that he will be more inclined to commit other murders in the future. The same consequences will not follow from the failure to save a life. Now this may be true (though I suspect that the differences are sometimes exaggerated, and may also be question-begging—perhaps someone who fails to save a life ought to be racked with guilt). There may well be good consequentialist reasons for regarding murder as normally worse than a failure to save a life. However, we still want to know whether there is a moral difference between killing and letting die as such. So, for the sake of the argument, and although it may put a severe strain on our imaginations, let us suppose that the consequences in the two cases really are the same. Vokinloksar’s refusal to give the money to the old woman, which would have saved her life, is not literally an act of murder, but is it morally equivalent to murder? Is it just as wrong as Raskolnikov’s act? This seems highly implausible. Even if you think he should have given the old woman the money (and you may well not even think that), his refusal to do so can hardly be equated with Raskolnikov’s act of murder. Why not? A plausible difference would seem to be that whilst Raskolnikov has actively killed someone, Vokinloksar has not.

We can also, at least initially, provide some backing for this distinction. I have allowed that consequences are morally relevant, and what the argument above does establish is that consequences can never be simply discounted. However, I have also indicated in the previous chapters that they are not the only thing which is morally relevant. In particular, the relations in which we stand to one another have their own independent significance; indeed, I have argued that it is impossible to understand why we should have any concern for one another at all unless we recognise the moral relevance of our particular relations to one another. I have also argued that these moral relations are diverse. Other people may be the potential beneficiaries or victims of our actions, and then the focus is on the consequences of our actions for others, but this is not the only morally significant relation in which we stand to
others. I have suggested that the attitude of respect grounds a different kind of moral relation. It involves seeing others as agents in their own right rather than as the recipients of our own actions. I distinguished in chapter 1 between moral obligations which derive from the fundamental attitude of respect and those which derive from the distinct fundamental attitude of sympathy. ‘Respect’ is linked with a suitably broad notion of ‘autonomy’; it involves standing back from the lives of others, letting them live their own lives, but not necessarily requiring us to act on their behalf. Obligations deriving from ‘sympathy’ may require us to intervene in the lives of others, to help or protect them. Respect, I have argued, underlies our recognition of the wrongness of killing, but it is at least possible that the case of saving lives is different. ‘Killing’ and ‘not saving someone’s life’ involve different relations between one person and another, and it is therefore conceivable that they have a different moral significance.

Reflection on further examples, however, suggests that a simple contrast between acts and omissions is unsatisfactory. Consider two other examples. Thomas Hardy’s short story ‘A Tragedy of Two Ambitions’ concerns two brothers, Joshua and Cornelius Halborough, sons of a village millwright, ambitious to rise in the world through a career in the church and anxious not to be frustrated by the social embarrassments created for them by their father, a habitual drunkard. They pack him off to Canada, have taken the first successful steps along their ecclesiastical careers, and are hopeful of seeing their younger sister Rosa betrothed to Mr Felmer, the local landowner and a widower. They then come upon their father, returned from Canada, again the worse for drink, and walking along the riverbank towards Felmer’s house intent on introducing himself, an action which will blight all their hopes. After an altercation with the brothers he continues on his way to the house. They hear a splash:

‘He has fallen in!’ said Cornelius, starting forward to run for the place at which his father had vanished, Joshua, awaking from the stupefied reverie into which he had sunk, rushed to the other’s side before he has taken ten steps. ‘Stop, stop, what are you thinking of?’ he whispered hoarsely, grasping Cornelius’s arm. ‘Pulling him out!’ ‘Yes, yes - so am I. But - wait a moment - ’ ‘But, Joshua!’ ‘Her life and happiness, you know - Cornelius - and your reputation and mine - and our chance of rising together, all three - ’ he clutched his brother’s arm to the bone; and as they stood breathless the splashing and floundering in the weir continued; over it they saw the hopeful lights from the manor-house.
By the time they reach the spot there is no trace of their father, and nothing they can do. My second example is not fictional, and so has the disadvantage that the facts are contested. It returns us to the subject of war. In 1944 the Russian army was pushing the Germans back through Poland. It halted on the outskirts of Warsaw. The Polish government in exile, in London, anxious that the Poles should liberate their capital city for themselves before the Russians arrived, called on the people of Warsaw to rise against the Germans. The uprising was crushed. The Russians made no attempt to come to its aid. It was convenient for them that the non-communist Polish Resistance should be destroyed by the Germans, so that it would present no challenge to Russian authority in liberated Poland.

It is a matter for dispute whether the Russians could have given effective aid to the uprising. Perhaps they could not have advanced further without over-extending their supply lines. For the sake of the example, however, let us suppose that they deliberately allowed the uprising to be crushed.

The pertinent feature of the two examples is, I hope, obvious. The point is not just that the brothers should have saved their father, nor that the Russians should have tried to prevent the Warsaw uprising from being crushed. As I have mentioned, advocates of the acts and omissions distinction can perfectly well accept that we have some obligation to save lives and to render other kinds of aid. What the examples suggest is that omissions can sometimes be morally equivalent to acts. Morally speaking, the brothers killed their father. The Warsaw example is less clear-cut, but some would certainly say that the Russians betrayed the uprising and, in effect, destroyed the Polish Resistance. What inclines us to say this is the element of intention. In my earlier example, Vokinloksar fails to save the life of the old woman, but he does not intend her to die. Here, by contrast, the brothers want their father dead, and though they are reluctant to admit it even to themselves, that is their intention in delaying; the Russians want the Resistance wiped out, and that is their intention in delaying. It is no excuse

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39 Thomas Hardy, *The Distracted Preacher and Other Tales* (Harmondsworth, 1979), p. 185.

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to say, in either case, that they did nothing. Their omission, their failure to act, was the means which they deliberately adopted in order to secure the deaths which they wanted.

This may seem to suggest that the morally important distinction is not between acts and omissions, but between intended and unintended consequences. The distinctions will often coincide, for if I intend to bring about a certain consequence, I am more likely to have to do it by means of an act rather than an omission. If I intend to bring about someone’s death, I would normally have to do it by killing them. The opportunity to do it by letting them die will not often occur. However, it will sometimes do so, as the examples show. The morally relevant factor is then the intention to bring about the death, rather than whether this is done by actively killing or by letting someone die.

The acts-and-omissions distinction was introduced as a way of supporting absolutism. It seemed initially plausible that certain kinds of actions might be absolutely ruled out, though not the corresponding omissions. The possibility which we should now consider is that some kind of absolutism could be sustained by saying that what is always and absolutely wrong is the intentional bringing about of certain states of affairs. A possible absolute principle would be that it is always wrong to intend the deaths of other human beings. This need not commit one to the principle that it is always wrong to fail to prevent deaths which one does not intend. Even if intentionally bringing about someone’s death is sometimes the only way of preventing even worse consequences (such as even more deaths), the absolutist can still maintain that it is wrong, since the consequences one then failed to prevent would be unintended consequences.

*The Doctrine of Double Effect*

The distinction between intended and unintended consequences has historically taken the form of a principle known as ‘double effect’. The phrase refers to the fact that actions may sometimes have two sets of consequences, one set being the intended consequences for whose sake the action is performed, and the other set being unintended side-effects. Suppose that an action is itself of a kind which is morally permissible, and is performed for the sake of a good result. Suppose that the action also has foreseeable but unintended bad consequences, and that
it is absolutely wrong ever intentionally to bring about such consequences. The doctrine of double effect states that it may be permissible to perform such an action, since the bad consequences are unintended side-effects and are not intentionally procured.

The doctrine of double effect has traditionally been a component of Catholic moral teaching, where it is typically applied in conjunction with absolute principles, such as the prohibition against killing the innocent. I have previously mentioned (and will examine in a later chapter) the idea that in war civilians are 'innocent', but combatants are not. This implies that an intentional attack on civilians in war is the intentional killing of the innocent, and is therefore ruled out. The deliberate bombing of cities in the Second World War, for instance, both by the Germans and by the British and American forces, has been condemned on these grounds. The following is the kind of case in which the doctrine of double effect then comes into play. Suppose that the intention is to bomb a military target. Let us assume that the war is itself a just war, and that this military action will help to defeat the enemy. Attacking a military target involves killing combatants, but that is in itself permissible. Suppose, however, that a foreseeable but unintended side-effect of the action is that a certain number of civilians living nearby are likely to be killed. It would be wrong intentionally to bring about their deaths. The doctrine of double effect says that bombing the military target, with these side-effects, may nevertheless be permissible, since it is not the intentional killing of the innocent.

As with the acts and omissions doctrine, an initial caveat is needed. I said that the acts and omissions doctrine does not mean that omissions do not matter. Similarly, the doctrine of double effect does not mean that unintended consequences do not matter. It does not mean that an action can be justified no matter how many unintended deaths of innocent persons it may bring about. Unintended side-effects are still subject to other moral limitations, such as the requirement of proportionality. The harm which they constitute must not be out of proportion to the good which could be achieved by allowing them. One could not, for example, bomb a target of only slight military importance, killing nearby civilians in huge numbers, and claim that their deaths did not matter because they were unintended. What the doctrine of double effect does is make it possible to apply an absolutist standard to the intended action and its intended consequences, while applying a consequentialist standard to the unintended consequences. Absolutist principles such as the prohibition against killing the
innocent can then be kept intact, for, even though a refusal to perform the prohibited action may lead to even worse consequences, these are unintended consequences and therefore, though they should of course be prevented if possible, they cannot outweigh the absolute principle.

A particular controversial topic to which the principle of not killing the innocent and the principle of double effect have been applied is the issue of nuclear deterrence. The idea of deterrence is that by threatening to use nuclear weapons in retaliation, one can prevent other countries from launching a nuclear attack. It is claimed by many people that if the United States or any other favoured country did not employ nuclear weapons as a deterrent, the use of nuclear weapons by 'the other side' would be even more likely. However, employing nuclear weapons as a deterrent means being willing to use them, for if the possessors of the weapons were not willing to use them, they would be not a deterrent. And being willing to use them means being willing to kill millions of people, perhaps destroying whole societies, and possibly producing climatic and environmental effects which might entirely eliminate the human species.

There are two possible moral criticisms of nuclear deterrence. It can be argued that a policy of nuclear deterrence is unacceptable because it involves the build-up of nuclear arsenals and therefore increases the risk of the ultimate catastrophe of an all-out nuclear war. Abandoning nuclear deterrence has its dangers, but it can be argued that, taking into account both their relative magnitude and their relative probability, the dangers of nuclear disarmament are outweighed by the dangers of deterrence. Such consequentialist arguments seem to me to be persuasive, but I cannot make them here.\textsuperscript{40} The moral criticism of nuclear deterrence which concerns me in this thesis is the absolutist argument. One cannot threaten to use nuclear weapons, even in retaliation, unless one is willing to carry out the threat. If one could be entirely certain that deterrence would succeed, it would be possible for a government to follow

a deterrent policy confident that it would never have to carry out the threat. In fact, however, no such certainty is available, and governments that follow such a policy therefore have to recognise that the policy may fail and that they must be willing to carry out the threat. (Making deterrent threats that are really a bluff is theoretically possible, but unlikely to be feasible in practice, given the nature of the political and military command structures, and in any case the deterrent policies of the nuclear-armed States are not based on bluff.) But, the absolutist argument maintains, one should not be willing to use nuclear weapons in any circumstances, since to use them would be to engage in the deliberate killing of the innocent. Nuclear deterrence is therefore not a morally acceptable way of preventing other States from using nuclear weapons. Whether or not it is an effective means of preventing them, it is not a permissible means, since it requires one to be willing to violate the absolute prohibition against the intentional killing of the innocent. If, as a result of our country’s refusal to maintain a nuclear deterrent, another State were actually to launch a nuclear attack and kill millions of innocent people, this would be an unintended consequence of our refusal. The prevention of this unintended consequence could not justify a willingness intentionally to violate the absolute principle.\(^1\)

The absolutist criticism of nuclear deterrence, then, is one example of how absolutism can be reinforced by the distinction between intended and unintended consequences which is contained in the doctrine of double effect. What are we to make of the doctrine? One problem is the inherent slipperiness of descriptions of intentions. The doctrine seems to lend itself to evading one’s moral responsibility by redescribing one’s intention, by saying ‘I didn’t intend that, what I really intended was ...’. Thus, advocates of the bombing of German cities in the Second World War might have said, ‘We don’t intend to kill civilians, what we intend is to


An attempted moral defence of nuclear deterrence might be that, although one cannot be certain that deterrence will succeed, it may in fact succeed (and has done so); therefore, though the practitioners of the policy must be willing to do what is wrong, it may turn out to be the case that they do not in fact do wrong. This defence depends on the premise that it may be morally permissible to be willing to do something which it would be wrong actually to do. Whether that premise is acceptable is a question I shall not pursue further, other than to note that it is unlikely to cut much ice against the kind of absolutism we are considering here, which is allied to the ‘double effect’ principle and accordingly stresses the moral importance of intentions.
destroy German morale; and although the intentional killing of civilians is indeed morally unacceptable, destroying German morale is a permissible act'. The doctrine then seems to become empty, for given sufficient verbal agility one can justify anything whatsoever.

To some extent the doctrine can be defended against this criticism. Any doctrine or principle can be misused, and though the doctrine of double effect perhaps lends itself to misuse more easily than most, misuse is still misuse. Intentions are not infinitely redescribable. For a start, an intention incorporates not just an ultimate aim, but the intended means of achieving that end. So, in the example given above, destroying German morale may be the aim, but bombing cities is the chosen means of achieving it. It is not a side-effect, it is the intended means, and is therefore an inseparable element in the full description of the intention.

One can of course say what one likes about one’s intentions; that is how the ‘intentional/unintentional’ contrast can be misused. The important question, however, is not how a person describes his or her intentions, but whether the description is a true description, and this is a matter of objective fact, even though it may be difficult for others to ascertain. It has sometimes been suggested, for instance, that a doctor who is opposed to euthanasia, but whose patient is dying slowly in great agony can resolve his or her dilemma by administering a pain-killing injection (e.g., of morphine) which will also, ‘as a side-effect’, hasten the patient’s death. The ‘double effect’ principle is invoked to suggest that the doctor is not intentionally terminating the patient’s life, since the intention is to ease the pain. If this is advocated as a resolution of the doctor’s dilemma, it is simply dishonest. The doctor’s dilemma consists of thinking it wrong intentionally to end a life, but recognising that it may be better for the patient to do so. If, in response to this dilemma, she deliberately administers a particular kind of pain-killing injection because it will also hasten death, then she is intentionally terminating a life. The fact that her intention is also to relieve pain makes no difference; if she says that she is not intentionally ending the patient’s life, she is deceiving either herself, others or both.

Moreover, correctly describing the agent’s intentions is not just a matter of ascertaining the psychological facts, but also in part concerns the nature of the action itself. The action may itself be such as to exclude certain possible intentions. Consider again the case of nuclear
deterrence. Defenders of the deterrent policy have sometimes tried to reconcile it with the prohibition on killing the innocent by advocating what is called a ‘counter-force’ rather than ‘counter-city’ policy. ‘If,’ it is said, ‘the deterrent takes the form of nuclear weapons targeted on military installations we would admittedly, if we used them, kill millions of innocent civilians, but our intention would be to destroy the military installations’. This defence fails because nuclear weapons, with their massive destructive power, do not permit that discrimination of intentions. By their very nature they destroy everything and everyone within a large area, and in using them you cannot intend to destroy some of the things or people and not others. Intending to use them against, say, a missile silo is just intending to use them against the whole area in which the missile silo is located. The intended goals to be achieved may be different, but the intended actions are indistinguishable. (Compare hitting a nail with a hammer: you can intend to hit the head of the nail, but you cannot intend to hit this particular spot on the nail-head rather than that.)

It may be objected that I seem to be incorporating too much into the description of intentions. I may seem to be moving towards the claim that all aspects of an intended action which are known to the agent must be part of the agent’s intention. That, however, would run together precisely the two things between which the doctrine of double effect is supposed to discriminate - the action and its side-effects. In my earlier example of the conventional (i.e., non-nuclear) bombing of a military installation, are we to say that the concomitant deaths of civilian passers-by, or of civilians hit by bombs which fall off target, are an intrinsic part of the intended action? The doctrine of double effect as traditionally applied does not carry that implication. It says that these would be side-effects. If, by contrast, we were to say that in the case of nuclear bombing the destruction of the civilian population is an essential part of the intended action and therefore cannot be described as unintended, then the distinction between ‘action’ and ‘side-effects’ is going to have to carry a good deal of moral weight, and it is not clear that the distinction is sufficiently sharp to do so. Thomas Nagel, in a discussion of ‘double effect’, considers the example of American actions in the Vietnam War, bombing villages in which guerillas are suspected to be hiding. Inevitably the victims were mostly unarmed women and children, but ‘the Government’, he says, ‘regards these civilian
casualties as a regrettable side-effect of what is a legitimate attack against an armed enemy'.\textsuperscript{42} One might counter that the action is an indiscriminate attack on the village and therefore on guerillas and civilians alike, discrimination between them being impossible, but the reply, Nagel envisages, might be that the action is obliteration bombing of the \textit{area} in which the guerillas are located, with civilian deaths as side-effects. Because of the inconclusiveness of arguments about the appropriate description of the action, Nagel says that the principle of double effect 'introduces uncertainty where there need not be uncertainty'.\textsuperscript{43}

I think it has to be agreed that the boundary between 'intended actions' and 'unintended side-effects', though perhaps not as indeterminate as Nagel implies, is not a sharp one. This might not matter. As I suggested in the previous chapter, in our moral thinking we may have to live with vague boundaries and grey areas. Perhaps the grey areas in the doctrine of double effect are greyer than most, but this is not the heart of the problem. Suppose that we can in fact draw a relatively workable distinction between 'intended actions', with their 'intended consequences', and 'unintended side-effects'. Suppose we were to satisfy ourselves that, in the Vietnam example, bombing the whole village is the intended means of killing the guerillas, whereas in the other case bombing the airfield near a heavily populated area would lead to civilian deaths only as unintended side-effects. Even if the distinction holds, I think that the underlying worry is likely to be: how can such a fine distinction make so much moral difference? I mentioned previously the impression often created by the 'double effect' principle, that it is an evasion, that it lets people off the hook. I have noted one crude way in which it furnishes an evasion: either through dishonesty or self-deception, someone might attempt to evade responsibility for an action by claiming that it was unintended and that their real intentions were morally acceptable. This would be a misuse of the doctrine. Even if it is employed honestly, however, we may still feel that this focus on the distinction between the 'intended' and 'unintended' effects of actions puts the emphasis in the wrong place. The distinction seemed appropriate when we looked at examples of the intended and unintended consequences of \textit{omissions}. The Halborough brothers' responsibility for their father's death seems akin to murder because they intentionally let him die, whereas if Vokinloksar fails to


\textsuperscript{43}ibid., p. 60.
save the old woman by giving her his legacy, he does not intend her death. In the airfield example, however, the civilian deaths, even if not intended, are the foreseen consequences of the attackers' actions. Killing the civilians is what they do. I have acknowledged that the 'double effect' principle is not supposed to absolve the attackers of all responsibility for the unintended side-effects; civilian deaths are still supposed to be avoided if possible. I can acknowledge also that the difference between intentionally killing civilians as the means to some end, and killing them as an unintended side-effect, may have some moral importance. It may seem, then, that the issue is simply that of how much importance the distinction should have. In the context of the present discussion, however, that is indeed a crucial question, for the distinction is supposed to make all the difference between thinking in absolutist terms and thinking in consequentialist terms. And we may doubt whether it can plausibly do this. If killing civilians as an intended means to some military goal is thought to be so morally appalling as to be absolutely ruled out, can it then be morally acceptable on consequentialist grounds to bomb a military target knowing that what one is also doing, though unintentionally, is killing civilians? There is a distinction, but many people's intuitive response will be that it cannot carry that much weight.

What re-emerges from such examples, I suggest, is the importance of agency. The acts and omissions distinction and the double effect principle have both been introduced as common ways of defending absolutism, and in that guise they both seem to point in the same general direction. The weakness of each, however, turns out to be its neglect of the plausibility of the other. The acts and omissions distinction fails to take account of the importance of intentions; it neglects the fact that intentional omissions may be on a par with actions. The double effect principle emphasises the importance of intentions, but neglects the importance of agency; it fails to recognise the important difference between the unintended consequences of omissions and the unintended, but foreseeable, side-effects of intentional actions.

The importance of agency is a deep-seated feature of the way in which we view our lives. Consider the following case. Suppose that a child runs out into the road in front of a car without any warning; it is quite impossible for the driver to stop or to swerve in time, and he knocks down the child and kills her. It might be quite correct to say that there was nothing the
driver could have done to avoid killing the child, and that he is therefore not to be blamed in any way. I do not want to resist that moral conclusion, but I do want to point to the fact that the driver is nevertheless likely to feel distraught at what he has done.\(^4^4\) This is quite distinct from the grief which any observer may feel at the tragedy of the child’s death. What is likely to preoccupy the driver is the thought that, however blamelessly and unintentionally, he killed her, and his feelings about this will be very different from his feelings about the fact that there are many other children in the world who have died and whose lives he could have saved if he had lived his own life differently. If the driver feels terrible about what he has done, I do not think that such a feeling is irrational. What it points to is, I think, a deep connection between one’s agency and one’s identity. The things that I have done go to make up my life, they are distinctive features of my sense of who I am. This is not normally true of my omissions. It might be in particular cases; the experience that someone’s life has depended on me and I have failed to save them may be a distinctive event in my own life-history. But this is not true of the myriad other harms in the world which I, along with innumerable other people, could have prevented.

Now I am not saying that, when my failure to prevent harm is a failure I share with others rather than a failure that is special to me, this makes it morally acceptable. Indeed I want to emphasise again that in the example of the driver I am not drawing any moral conclusions at all. What I am trying to do is to explain why, in cases where questions of moral responsibility do arise, it may be plausible to make a distinction between actions and omissions. I am suggesting that it obtains its plausibility from the link we make between our agency and our identity, and that the significance of this link is confirmed by the way in which we think about non-moral cases such as the driver example. It may be said in response that we should change this feature of our thinking - that we should regard our omissions as being just as definitive of our lives as our actions are. I doubt whether this is possible. For reasons which I shall come back to later in this chapter, I suspect that any such proposed conceptual revision would turn out to be incoherent. For the moment, however, I simply want to draw attention to the pervasiveness of the idea that killing someone, even if the death is unintended, has a different significance from failing to prevent someone’s death.
At this point in the discussion we might conclude that, having come full circle, what we need is
a combination of the 'acts and omissions' principle and the 'double effect' principle. The 'acts
and omissions' distinction fails to take due account of the fact that intentionally letting
someone die may be morally on a par with killing them. The 'double effect' doctrine fails to
take due account of the fact that knowingly killing someone, even if the death is unintended, is
importantly different from unintentionally failing to save lives. Perhaps what we need, then, is
a theory which takes account both of the difference between acts and omissions and of the
difference between intended and unintended deaths. Such a theory might state that we are as
responsible for the intended consequences of our omissions, and for the unintended but
foreseeable consequences of our actions, as we are for our intended actions and their intended
consequences; but that we are not, in the same way, or to the same degree, responsible for the
unintended consequences of our omissions. This hybrid theory could provide the necessary
support for an absolutist prohibition of killing (or of killing the innocent). The absolute
principle would be that it is always wrong knowingly and avoidably to kill (innocent) people,
or intentionally to let (innocent) people die. It would be wrong even if that were the only way
of preventing other, unintended, deaths. Faced with a situation where, whatever we did,
people would die, it would still be wrong to violate that absolute principle. Since the resulting
deaths would be unintended, the principle would not be shown to be inconsistent in the way
suggested by our original consequentialist criticism of absolutism.

I do indeed think that a satisfactory theory needs to take account of the plausible elements in
both the 'acts and omissions' principle and the 'double effect' principle. As yet, however,
such a conclusion has something of an ad hoc air about it. The argument so far has consisted
in assessing the intuitive plausibility of those two principles when tested against various
examples. By proceeding in this way we can patch up an anti-consequentialist position which
looks reasonably coherent, but it does not take us to the heart of the matter. I want now to
attempt a more thorough-going analysis of what is wrong with consequentialism, and to do so
by looking more closely at the central concept of 'responsibility'. I shall suggest that the
consequentialist account of responsibility is inadequate in three fundamental respects: (i) it is

\[44\] Cf. Bernard Williams, 'Moral Luck', p. 28, in Moral Luck: philosophical papers (Cambridge: Cambridge
implausibly individualistic; (ii) it is indeterminate; and (iii) it is morally question-begging. I shall elaborate each of these three claims in turn.

**Consequentialism as Individualistic**

Bernard Williams usefully characterises the consequentialist notion of responsibility as that of 'negative responsibility': 'If I am ever responsible for anything, then I must be just as much responsible for things that I allow or fail to prevent, as I am for things that I myself, in the more everyday restricted sense, bring about.' This of course is just another way of saying that consequentialism rejects anything like the 'acts and omissions' distinction. What it also brings out is the fact that consequentialism offers a purely causal picture of moral responsibility. What I am responsible for is simply a function of the consequences that are causally affected one way or another by my actions and inactions. To decide what I ought to do in any situation, I have to consider all the various states of affairs that are likely to come about if I act in various ways, which will turn out differently if I act differently, and for which I am to that extent responsible; and I have to decide which of all these states of affairs is on balance the best.

As Williams also points out, this picture takes no account of the fact that, in some cases, what will come about as a result of my acting in a certain way will come about because of other people's actions:

from some, at least, non-consequentialist points of view, there is a vital difference between some such situations and others: namely, that in some a vital link in the production of the eventual outcome is provided by someone else's doing something. But for consequentialism, all causal connections are on the same level, and it makes no difference, so far as that goes, whether the causation of a given state of affairs lies through another agent, or not.

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46ibid., p. 94.
In other words, consequentialism leaves no room for the idea that in the case of some of the consequences of my actions, I am not responsible for them because someone else is responsible for them.

We must be careful what use we make of this idea. Consider an example proposed by Alan Gewirth.47 A group of terrorists possesses an arsenal of nuclear weapons, and they threaten that they will use them to destroy a large city unless one of their political opponents named Abrams tortures his mother to death. (Their aim is perhaps to demonstrate their power and humiliate their opponents). Should Abrams accede to their demand? Surely, it might be said, a mother’s right not to be tortured to death by her own son is absolute. But if Abrams refuses, won’t he then be responsible for the deaths of all the innocent inhabitants of the city?

Gewirth’s example may appear far-fetched, but the recent annals of terrorism make it not too difficult to construct a modified and plausible example. In 1989, for instance, Iranian Muslims issued a death sentence against the novelist Salman Rushdie and demanded that the British Government hand him over for execution. We can all too easily imagine a group of terrorists hijacking an airliner and threatening to blow it up, thereby killing the hundreds of innocent passengers on board, unless Rushdie is delivered up for execution. The absolutist would presumably say that it is wrong to send an innocent man to execution in order to appease terroristic demands. The consequentialist could then ask: if the British Government refused to do so, would they not then be responsible for the deaths of the passengers? (There are also consequentialist reasons for not giving in to the hijackers. Accepting their demands would set a precedent and encourage similar terrorist actions in the future. Moreover, in any actual case one could not be certain that the terrorists were not bluffing, and one might therefore decide that it was worth taking the risk of refusing their demands in the hope that they would not carry out the threat. The consequentialist case could therefore go either way. The question is: is this the whole story, or is there some deeper reason for thinking that it would be wrong to send an innocent man to execution in order to save the passengers?)

Gewirth says of his own example that Abrams would not be responsible for the ensuing deaths if he refused to torture his mother to death. This, says Gewirth, is because of the ‘principle of the intervening action’. Simplifying Gewirth’s formulation somewhat, such a principle asserts the following:

If A’s doing X will lead to C suffering harm Z, A’s responsibility for Z is removed if there intervenes a further action Y performed by B, who intends Z.\textsuperscript{48}

In such a case, A is not responsible for Z, since B is responsible for it. So, in the example, it is the terrorists, not Abrams, who will be responsible for the deaths. If Abrams refuses to torture his mother to death, the deaths of the innocent inhabitants of the city will ensue only because the terrorists intentionally bring about those deaths. Abrams should abide by his absolute obligation.

The principle of the intervening action seems plausible when applied to Gewirth’s example, but other examples may suggest that it is too simple. Gewirth makes it sound as though responsibility is primarily a matter of chronology - ‘I am not responsible if someone else’s contribution is subsequent to mine’ - but if that is what he means it cannot be right.\textsuperscript{49} We are not absolved from responsibility simply because someone else does the final deed. To say ‘It’s not my responsibility, because it’s their responsibility’ will in some cases be appropriate, but in others it will be an evasion, an excuse, a futile attempt to ‘keep one’s hands clean’. The phrase itself should remind us of the classic example: Pontius Pilate may have washed his hands of the matter, but he was partly responsible for the death of Jesus, even though it was the chief priests who played the more active part.

\textsuperscript{48}Gewirth’s full formulation is: ‘when there is a causal connection between some person A’s performing some action (or inaction) X and some other person C’s incurring a certain harm Z, A’s moral responsibility for Z is removed if, between X and Z, there intervenes some other action Y of some person B who knows the relevant circumstances of his action and who intends to produce Z or who produces Z through recklessness. The reason for this removal is that B’s intervening action Y is the more direct or proximate cause of Z as it actually occurs’ (ibid., p. 104).

\textsuperscript{49}To be fair to Gewirth, I do not think he wants to say that it is simply a matter of chronology. When he introduces the principle of the intervening action, he does say that it is needed to supplement the principle of double effect and the ‘acts and omissions’ distinction (p. 104). And in his discussion of the Abrams example he does give weight to the fact that the deaths of the inhabitants of the city would be the ‘foreseen but unwanted side-effect’ of Abrams’ refusal to torture his mother to death (p. 105). I think that Gewirth is right that an adequate account must incorporate all these considerations. Nevertheless it remains unclear exactly what is meant by the term ‘intervening action’, and whether ‘intervening’ itself is supposed to mean anything more than ‘chronologically intervening’.
The idea that my responsibility for consequences is removed if someone else’s contributory action comes after mine would, then, be too simple. What Gewirth’s discussion does importantly bring out, however, is that moral responsibility is a social matter. What we are responsible for, and hence what we ought to do, depends in part on what other people are responsible for. Responsibility is something which is shared, and depends on complex facts about the social relations between different moral agents. This is what consequentialism seems to ignore, and it is why the consequentialist model of moral responsibility is a deeply individualistic one. At its heart is a picture of the isolated moral agent face to face with the universe. Of course the picture will incorporate the recognition that there are other moral agents in the world. But my knowledge of what other people are likely to do, and what they are likely to see themselves as responsible for, will figure for me as just one more set of causal factors capable of affecting the likely consequences of my own actions.

What we need, in contrast to this, is a coherent social picture of moral responsibility. We need an account of where one person’s responsibilities end and another person’s begin - an account which will also recognise, of course, that different people’s responsibilities overlap and that many of our responsibilities are shared. I shall come back later to a brief discussion of what this picture might look like, but for the moment I simply note that it will be complex. In Gewirth’s example, the important relevant feature is surely not just that the terrorists’ action intervenes between Abrams’ refusal to torture his mother and the destruction of the city, but the fact that the terrorists are blackmailing Abrams, that they have put him in this position where he has to make this impossible choice; their responsibility does not just intervene, but overrides his because they are really responsible for whatever choice he makes. In the Pilate example, one of the reasons why his disavowal of responsibility is an evasion is that he is in a position of authority and it is his job to make such decisions. So an adequate social account of moral responsibility will have to take account of both the ways in which one person’s responsibility may affect another’s by virtue of the transitory relations between them in particular circumstances, and the ways in which people’s responsibilities follow from their more fixed social roles and positions.
There are ways in which the consequentialist can make room for the *social* ascription of responsibilities. There are versions of utilitarianism in particular which acknowledge that we can, cooperatively, do more good in the world if we divide up our responsibilities between us, assume particular *social* and institutional roles and concentrate on these. Instead of everyone trying to do everything, it will be more efficient if each of us gives priority to working well at his or her own job and at meeting his or her particular *social* obligations. Though the consequentialist can say this, however, the place that is here given to *social* relations and responsibilities is a secondary one. Behind it still lies the original consequentialist model, and the assumption remains that it is from that standpoint that we should justify the secondary *social* division of responsibilities. I have suggested that in our account of moral responsibility, the *social* dimension needs to be present from the start.

**Consequentialism as Indeterminate**

I turn now to the second, connected, criticism of consequentialism. Its account of moral responsibility has sometimes been objected to on the grounds that it is excessively demanding. With the consequentialist model it is not enough simply to go through life avoiding the most obvious kinds of wickedness and observing the standards of average decency. We have to widen our vision, we have to look for other possibilities that may be open to us to mitigate evils and to do good, and we have to assume responsibility for these. If we take this wider view, we may then recognise, for instance, that there is a great deal of suffering in the world resulting from poverty and starvation which we could help to prevent.\(^{50}\) If I am an average affluent middle-class Westerner I could, by parting with some of my income, prevent people in other parts of the world from dying of hunger and illness and malnutrition. And this is indeed a demanding doctrine, for suppose that by conventional standards I donate quite generous amounts of money to the relief of famine and hunger: there remains more that I could do, to prevent more deaths and suffering, and this will continue to be true until my generosity reaches the point where the inroads on my own well-being begin to outweigh the

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\(^{50}\) For a very forceful presentation of the facts and the case for an obligation to assist, see Peter Singer, *Practical Ethics* (Cambridge: Cambridge University Press, 1979), ch. 8, and his ‘Famine, Affluence, and Morality’ in *Philosophy and Public Affairs* vol. 1 no. 3 (1972), pp. 229-43.
further good that I can do for others. If I stop short of that point, my responsibility for the further deaths and suffering which I could have prevented is, according to the consequentialist, in principle no different from a willingness to commit murder.

Now if the only thing to be said about this account of moral responsibility were that it is very demanding, this would not be a convincing objection. The real objection is not that the account makes our responsibilities very great, but that it cannot provide any definite demarcation of them at all. As such, it is not a demanding doctrine; indeed it is incoherent. Suppose that I take seriously my responsibility for combating hunger worldwide. I give away half my income, I devote all my spare time to campaigning and raising money. However, if I do this, I have done nothing to help combat the threats to the environment, and so I must regard myself as responsible for all the environmental destruction which I have failed to prevent. If I try to assume this responsibility, I will have done nothing for the plight of political prisoners, or the victims of racial prejudice or the mentally handicapped. The list is endless, and that is because the class of 'possible actions open to me' is entirely indeterminate. Consequently there is no way of saying what I am responsible for. Whatever I do, there is an indefinite number of other things that I could have done. To say that I am responsible not only for my 'acts', but also for my 'omissions', gives only the illusion of determinacy. Something can be identified as an omission only if there are prior reasons for picking out the corresponding action as the thing one should have done. We can describe the Halborough brothers as 'omitting' or 'failing' to save their father because of our prior belief that they should have saved him, but if we were asked to list all the other things which they were 'not doing', as a preliminary to deciding which of them they should have done, the question would be meaningless. The list of 'things I am not doing' is not set by the empirical features of my situation; it can be extended by every new action-description which I invent to describe a possible action which I am not performing. Bear in mind also that the consequentialist will have to say when I look back on my past I must not only take responsibility for all the evils which I could have prevented, but must also take credit for all the good things which have happened which I could have frustrated. Therefore, as far as my past responsibilities are concerned, there is no way in which I can, as it were, look back over my moral record and assess it overall, for there is no way of identifying what it is that I have
done or failed to do. And the same impossibility attaches to any attempt to identify in purely consequentialist terms a coherent set of responsibilities for the future.

It is instructive to consider how a consequentialist might reply to these criticisms. Jonathan Glover quotes from Dostoevsky’s *The Brothers Karamazov* the statement by Father Zossima’s brother that ‘everyone is really responsible for everyone and everything’. He comments:

This view ... seems to have nightmare implications. There is so much misery in the world that, however hard one person tries, he cannot remove more than a fraction. Does rejection of the acts and omissions doctrine commit us to being responsible for all that is left? ... It is clearly absurd that a man who devotes his whole life to a campaign against poverty should reproach himself for, say, not having done any useful research into the causes of muscular dystrophy.\(^51\)

Glover then tries to defend consequentialism against this imputation of absurdity:

In allocating our time between actions, we have to work out priorities. The moral approach advocated here does not commit us, absurdly, to remedying all the evil in the world. It does not even commit us to spending our whole time trying to save lives. What we should do is work out what things are most important and then try to see where we ourselves have a contribution to make. We should then be able to justify the pattern of our lives. This is still a very demanding morality, which hardly anyone succeeds in living up to, but it is not the totally impossible demand made by Father Zossima’s brother.\(^52\)

On the face of it, this looks reasonable: we cannot do everything, we have to make a selection. Notice however that Glover sees the problem only as being that consequentialism is too demanding, not that it is incoherent. There remains, therefore, the insoluble problem of how we can make the best selection from an indeterminate set of possibilities. But even setting aside that fundamental incoherence, what sense can a consequentialist give to the idea of ‘working out priorities’? Identifying priorities ought to mean looking at who I am, what my relations are to others, what particular responsibilities I have to particular people or particular groups of people. For the consequentialist, however, ‘working out what things are most important’ must mean assessing importance from a purely abstract and external point of view,


\(^{52}\)Ibid., p. 105.
from the point of view of ‘the universe’, as it were, deciding what will ‘do the most good on
the whole’. The idea of ‘particular responsibilities’ has to be derived from that abstract, and
again incoherent, calculation.

Likewise, what sense can the consequentialist give to the notion of ‘the pattern of our lives’?
Again this ought to mean recognising my particular social and cultural identity, working out
who I am and where my loyalties lie. From the standpoint of a social model of responsibility,
we could make sense of this. The pattern of my life might be set by my work, for instance, or
my family responsibilities, or my loyalties to my country or to my community. If my priorities
are wider than some conventional identification of social roles, this will still be because of my
sense of the particular responsibilities that I incur by living at a particular time in a particular
place. So, as a privileged Westerner, I may decide that I can no longer live by benefiting from
the exploitation of other parts of the world, and I might then give up my career in order to
become, say, a health worker in Sri Lanka. But it will still be my commitment to this work
which gives a pattern to my life. For the consequentialist, however, such commitments and
loyalties are perpetually liable to be subverted. Suppose I take up a career as a doctor,
deciding that this is a way in which I can be useful to others. If I am a successful doctor and
earn a good income, I may then come to discover that, however useful I am as a doctor, I
could do more good in the world by donating half of my earnings to the cause of cancer
research, at the expense of my family’s prosperity; and this judgement will in turn be up for
reassessment as my circumstances change. So the idea of a ‘pattern’ gives way to that of the
endless calculation and re-calculation of possibilities. It is in the very nature of
consequentialism to subvert the patterns in our lives, since every new piece of information
about the potential consequences of our actions is liable to reveal new ways in which we could
more effectively do good and prevent harm.

Consequentialism as Morally Question-Begging

I have said that consequentialism purports to be a purely causal view of responsibility. I also
want to suggest, however, that that appearance turns out to be illusory. The idea that we are
responsible for all the good and bad consequences of all our actions and inaction’s rests on a
prior moral assumption: that our moral responsibility is a responsibility to everyone, to all the possible beneficiaries of and losers from our actions, now and in the future. Recall the sentence from Dostoevsky: ‘everyone is really responsible for everyone and everything’. For Father Zossima’s brother, the idea that each of us is responsible for everyone else gets its backing from Christian ethics, from the vision of all human beings as children of the one divine Father. Characteristically, however, consequentialism gets its plausibility from its association with the substantive moral theory of utilitarianism. Now consequentialism and utilitarianism are, in theory, supposed to be distinct. Consequentialism is held to be the wider doctrine, with utilitarianism as just one particular way in which it can be given a more specific moral content. Consequentialism is simply the claim that the rightness or wrongness of actions is determined by their good and bad consequences, whilst utilitarianism offers a more particular account of what we are to regard as good or bad consequences. I am suggesting, however, that consequentialism looks plausible only if the crucial moral work has already been done by a doctrine such as utilitarianism. As I have said, it does not have to be utilitarianism. A certain kind of Christian morality might play a similar role. There are other possibilities. But some such concrete morality is needed in order to establish the moral relevance of consequences. Typically, in the philosophical literature, the job has been done by the association of consequentialism with utilitarianism. Consequentialism then looks plausible because the crucial moral move has already been made, before the argument starts.

Consider any one of the myriad consequences which are supposed to be relevant. Someone, somewhere, is lonely, and is suffering from being lonely, and I could do something to help, so to that extent, it is said, I have a responsibility for the suffering which I could prevent (though my obligation to do so must then be weighed against all the countless other obligations with which it is in competition). Now to the initial fact, of someone’s suffering, I can reply ‘So what? What is that to me?’ That question requires an answer. It can be answered, and various different kinds of answer are possible, but it cannot be answered simply by pointing to a causal relation between a possible action of mine and the possible relief of the suffering. Utilitarianism answers it with what I want to call its ‘abstract universalism’ - the idea that each of us ultimately stands in the same moral relation to everyone else. Everyone’s moral relation to me is that of being the potential beneficiary of my actions, and therefore I have the same responsibility to everyone, the responsibility for the promotion of their happiness and
the prevention of their suffering. That is why utilitarianism lends itself so readily to the support of consequentialism, for if my responsibility to everyone is of this same kind, then what I ought to do can be determined simply by the maximising calculation, the weighing up of the beneficial and harmful consequences. As I have argued, however, it is a mistake to suppose that all our responsibilities can be derived from this one universal relation, for this is to ignore the diversity of our social relations, and their complex implications for our moral responsibilities.

To revert, then, to the kind of example which is my primary concern in this chapter, suppose that, if I do not kill someone, thousands of people will die. For the consequentialist, the number of deaths is the crucial consideration. (Strictly speaking, of course, the benefits and harms likely to accrue to each life are the fundamental components in the calculation, but if the numbers are large enough we can assume that the larger number of deaths is likely to be the greater evil). However, we can regard the number of deaths as clinching the moral argument only if we already assume that I have just the same responsibility to each of the potential victims. We cannot assume this. We can argue about it, but the argument will be a moral argument and it cannot be settled simply by establishing the causal relations between my possible actions and other people’s deaths.

**A Social Model of Moral Responsibility**

My three criticisms of consequentialism all point in the same direction. They indicate that the extent of my responsibility for the consequences of what I do depends on prior moral considerations, not just on causal considerations. They indicate also that those moral considerations will depend on the various kinds of social relations in which we stand to one another. In the light of these social relations we can understand how one person’s responsibilities are limited by the responsibilities of others, and which of a person’s responsibilities are shared with others. In the light of a determinate picture of specific social responsibilities, we can pick out which of the innumerable possible actions that are open to us count as significant omissions, and thus give a determinate content to questions about what we ought to do.
What I want to propose, then, is a social model of moral responsibility, in place of consequentialism’s causal model. The consequentialist model starts from the assumption that we are in principle responsible for all the consequences of all the possible actions and inactions open to us, and that what we ought in principle to do is determined by the weighting up of these consequences, and then it moves to the idea of social relations and responsibilities as a way of narrowing down our obligations in practice and enabling us to act more effectively. The alternative social model that I am proposing starts from our relations with one another and the various particular responsibilities which these generate, and it moves from there to an understanding of what we ought to do. Of course, in deciding what we ought to do, a knowledge of the likely consequences of our actions is relevant, but it is only in the light of a prior understanding of our responsibilities that we can consider what consequences are relevant and how they are relevant.

This social model will be a great deal more complex than the causal model. For the latter, complexity enters at the level of detailed causal calculations, but the concept of responsibility itself is a simple one. My particular social model will also lack the simplicity of absolutism. I cannot argue that certain kinds of action such as killing are always wrong, whatever the consequences. This would require the claim that our responsibility for the harmful consequences of our refusal to perform such actions is ruled out by some such principle as the ‘acts and omissions’ distinction or ‘double effect’. I do think that those ideas have a role to play, but only as part of a wider and more complex picture.

In a sense, then, I do not have a general theory of moral responsibility. The task of working out what our responsibilities are is a matter for detailed moral argument. It is part and parcel of the business of arguing about what we ought to do, not a preliminary to it. Nevertheless I shall try to sketch in detail the kinds of social relations which will have to enter into the picture. This will draw on the sketch which I have already offered in chapter 1, but will emphasise the implications for our understanding of the idea of moral responsibility.

There are first, then, certain kinds of universal responsibility. I have criticised the abstract universality of utilitarianism. I have also argued, however, that there are indeed
responsibilities which we have to everyone, and these are the general responsibilities to other human beings which are grounded in our capacities for respect and sympathy. I have previously linked the attitude of respect with the wrongness of killing. I have also suggested that it helps to ground a distinction between ‘killing’ and ‘letting die’. Respect, I have suggested, is primarily a response to others as agents. I have linked it with a kind of distancing of oneself from others, recognising that they have their own lives to live and acknowledging their right to do so rather than ourselves engaging in helping others to live their lives or seeking to prevent their deaths. Our responsibilities to others to help to promote their well-being and to prevent their suffering or death derive from the distinct response of sympathy. This generalised sympathy is the basis for utilitarian moral considerations, but the mistake made by utilitarianism as a theory is to treat this one attitude as incorporating the whole of morality. We do indeed have general obligations to aid others and to prevent harm, but they occupy only a portion of our moral lives. Limits to that portion are set partly by the attitude of respect, the requirement not to live others’ lives for them. Limits are set also by our more specific responsibilities arising out of our special relations to others, which compete for space in our lives. This is where we can agree with Glover that ‘we have to work out priorities’ in such a way that we are ‘able to justify the pattern of our lives’. Detailed deliberation and argument has to take over here; no general theory can tell us what that pattern should be. In short, Father Zossima’s brother is half right. We do have general responsibilities for others. We are, up to a point, responsible for everyone, but we are not responsible for everything, and to suppose that we are is to deny other people responsibility for their own lives.

These general responsibilities, then, deriving from sympathy and respect, are one element in my social model. A second class of considerations derives from relations between power and autonomy. This second category overlaps considerably with the first. Respect for others is, we have seen, respect for their autonomy if ‘autonomy’ is understood in an appropriately wide sense, as not just the ability to act on this or that particular desire, but the ability to control one’s life as a whole. A failure to respect the autonomy of others will characteristically consist in the exercise of power over them. Considerations of power and autonomy give some support to the ‘acts and omissions’ distinction and to the idea of ‘double effect’. If I act in such a way as to affect another person, my relation to that person is, to that extent, different from what it would be if I left him alone, and the difference is typically a difference in our relative degrees
of power and autonomy. If another person and I are in an open-ended situation, my acting will characteristically close off certain options for the other person, whereas my doing nothing will leave the options open. Even if I act in ways which are beneficial to the other person, my bringing about the valued outcomes for her will prevent her from acting for herself to bring them about. So if considerations of autonomy and of power-relations between people are morally important, the position on the broad spectrum between intrusive action and apathetic inaction will likewise be important to recognise.

As it stands, however, that is too simple. As we have seen, refraining from action may itself sometimes be a way of deliberately bringing about a certain outcome (as in the Thomas Hardy example). This is why intentions are also important, and the doctrine of double effect rather obscurely recognises this. My intentionally bringing about a certain outcome, whether by acting or by refraining from acting, will to that extent be a case of exercising power, and my bringing about a harmful outcome for another person amounts to exercising power over that person.53

The strength of the doctrine of double effect is that it recognises the positive importance of intentions, such that intentionally refraining may be morally equivalent to acting. The weakness of the doctrine on the other hand is, as we have seen, that it too easily exonerates people from responsibility for the unintended outcomes which they knowingly bring about. If relevant considerations are those of power-relations, of exercising control over others and imposing outcomes on them, then the plain fact is that, for example, dropping bombs on a military target and knowingly bringing about the deaths of the people in the vicinity is a classic case of exercising power over them, and no amount of playing around with the question of whether the deaths are intended or unintended can alter that fact.

53 The doctrine of double effect is defended in these terms by Warren S. Quinn in his article ‘Actions, Intentions, and Consequences: The Doctrine of Double Effect’, in *Philosophy and Public Affairs*, vol. 18 no. 4 (1989), pp. 334-51. Quinn argues that what is especially wrong with the intended, as compared with the foreseen but unintended, harmful treatment of people has to be understood in terms of the special kind of relation between the harmer and the harmed. The latter falls under the power and control of the former in a distinctive way. The intentional harmer treats his victims ‘as if they were then and there for his purposes’, ‘he sees them as material to be strategically shaped or framed by his agency’ (p. 348). This is not true of someone who unintentionally harms others.
Of course I do not want to say that all bringing about of outcomes for other people is an exercise of power over them and therefore bad. Some ways of intentionally bringing about a certain outcome for another will be ways of empowering the other person; for example, if I offer my cooperation, or provide information or educate him and thereby enhance his autonomy.\(^{54}\) Nor do I want to say even that all cases of bringing about harmful outcomes for others have the same moral status, and that the wrongness of doing so always takes precedence over the wrongness of an unintended failure to help others. For instance, the wrongness of telling lies and deceiving others is very much tied up with the relations of manipulation and control which this involves, and in this respect it is comparable to the bringing about of people’s deaths, but I do not want to conclude that one may never tell a lie even to save another person’s life. One cannot avoid taking account also of the scale of harms, and telling a lie, manipulative though it is, may be a trivial harm compared with the possibility of saving someone’s life. So doctrines such as the ‘acts and omissions’ distinction and ‘double effect’ are too broad and simple on their own for defining the relative importance of our different moral responsibilities, and it would be a mistake to look for any alternative doctrine which operates at the same level of generality. We cannot say in a general way that the wrongness of acts has a more fundamental status than the wrongness of omissions, or that intentional acts carry a greater weight than unintended consequences, or that obligations to refrain from bringing about harm to others take precedence over positive duties to provide aid and support.\(^{55}\) What we can say is that certain kinds of acts and intentions have a special status. In the light of considerations about the character of our moral relationships, I do want to claim that the wrongness of taking a human life has a fundamental place in the defining of our moral responsibilities. The bringing about of another’s death, whether by active intervention or by intentional refraining, is the ultimate case of exercising power and control.

\(^{54}\)But note the moral ambiguity even in such cases. Even in empowering another I am exercising power over his situation, for he may not want to be empowered, he may not want to be educated, he may not want to cooperate, he may not want to know. Relations such as that of teacher and pupil, or parent and child, always involve this ambiguity.

\(^{55}\)This is why Philippa Foot’s useful proposal of a classification into ‘negative duties’ and ‘positive duties’, though it has prompted some of the things which I have been trying to say, nevertheless seems to me to need breaking down into more specific moral categories. See Philippa Foot, ‘The Problem of Abortion and the Doctrine of Double Effect’, in Virtues and Vices, and Other Essays in Moral Philosophy (Oxford: Blackwell, 1978), p. 27.
over another, of violating that person’s autonomy and withholding the respect appropriate to him or her as a separate and unique individual with his or her own life to lead.

Considerations of power and autonomy, then, give a special importance to my responsibility to respect the lives of others. Beyond that, they set limits to my further responsibilities for others, at the point when my attempts to produce benefits or prevent harm to others start to become an exercise of control over their lives. A further significance of considerations of power and autonomy is in situations where other people’s responsibility invades and overrides my own. I am referring here to cases like the Gewirth example. The relevant feature of such cases is that others, by their actions, deliberately put me in a situation where whatever I do will lead to an appalling outcome. They impose on me a ‘forced choice’. Their doing so must then affect the judgement of my responsibility for the outcome. As I said when discussing Gewirth’s example, this is not simply because their actions ‘intervene’ in a chronological sense. It is because, in exercising power over me and denying my autonomy, they must be seen as responsible for the outcome of the forced choice which they impose on me. If Abrams refuses to torture his mother to death, it is the terrorists who are responsible for the deaths of the inhabitants of the city. Abrams could have prevented the deaths, but only by doing something which would itself have been morally appalling, and since the terrorists have imposed the forced choice on him, their responsibility alters his. This idea that someone’s imposing a forced choice on me affects my responsibility for the outcome is an idea to which I shall return in the next chapter when I consider the problem of killing in self-defence.

So far I have considered two general kinds of relation between people which must feature in our social model of moral responsibility. They are the responses of respect and sympathy which ground our general concern for others, and the relations between power and autonomy which make a difference to how one person’s responsibility affects another’s. In addition to these two general kinds of social relation there is, thirdly, the category of all the specific responsibilities which we have in virtue of our various kinds of special relation. This is where a complete social theory is needed in order to give a full account, but obvious examples are the responsibilities which we have in our relations with family and friends, fellow workers and fellow citizens. These special responsibilities are not necessarily obligations to do more than we would do for everyone else. They may be - one’s responsibilities to one’s children
may, for example, require one to make greater sacrifices to support them than one would make to meet the needs of others - but they may also be responsibilities of a different and distinctive kind. We owe it to our friends, for instance, to provide emotional support, and to those with whom we cooperate we have obligations to deal fairly and to share justly the products of our common endeavour.

Without going into details about the multiplicity of special relations and responsibilities, I want to make two points. Although I criticised the causal model of responsibility as ‘individualistic’, my own account so far may appear individualistic in another sense, for I have been emphasising the ways in which one person’s responsibilities limit another’s. That, however, is only part of the picture. To say that people have their own lives to lead does not mean that they live them in isolation. They live them as social beings, involved in various kinds of social cooperation, and this is where specific responsibilities arise from our membership within groups and communities. Many of our responsibilities are shared responsibilities, which we have in common as members of a group, and where what falls to me as an individual is the responsibility to ‘do my bit’. This is particularly relevant to our understanding of autonomy. I have discussed the case of one person’s actions encroaching on another’s autonomy, and suggested that this sets limits to our responsibilities for others. Equally important, however, is the role of social cooperation in promoting autonomy. I have mentioned briefly the importance, for example, of education in developing our ability to make informed choices about the direction of our lives. I would add that insofar as autonomy consists in our ability to exercise control over our lives, this is often something which we can do only in cooperation with others. Only through participation in shared social and political activity can I, for instance, have any effective control over the quality of my social and natural environment or over the economic institutions which profoundly affect my life.

The second point I want to make is to reiterate that our specific social relationships go to make up that ‘pattern of priorities’ within which we have to make sense of our responsibilities. If our general responsibilities for others are limited, this is partly because they have to take their place within a life structured by our specific roles and relationships. Organising our responsibilities in this way is, I have argued, not just a practical afterthought;

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only within such a context can we give any determinate content at all to the idea of ‘responsibility’.

Here then are the three categories of social relations that are relevant to our understanding of moral responsibility: those general responsibilities to others which are grounded in the attitudes of respect and sympathy; relations of power and autonomy; and more specific social roles and relationships. I do not want to claim that these give us a complete account of moral responsibility. They are parts of the picture, considerations which are important for the determination of our responsibilities.

Two Examples: Taking Action to Reduce World Poverty and the Question of Active and Passive Euthanasia

If my lack of a simple general theory still seems a defect, let me try to illustrate my approach by applying it to two examples. Consider first the example of action to reduce world poverty and starvation. We have seen that, for the consequentialist, this must be a question of estimating how much good I can do by taking such action, and comparing it with the consequences of all the alternative actions open to me. This seems at first to give us overwhelming responsibilities, only for them to evaporate when we consider all our other overwhelming responsibilities. Can we offer a better account?

The consequentialist case for an obligation to assist gets its initial plausibility from the stark facts of human suffering. We are moved, for instance, by the suffering of the victims of drought and famine in sub-Saharan Africa, and we recognise their needs as urgent and as requiring emergency action on our part. That recognition is an expression of our basic human sympathy. As such, it may be limited, as an immediate response to an extreme situation. However, if we look more closely at the less dramatic but continuing economic hardship of the peoples of Africa and Asia and Latin America, we recognise that much of it is the product of economic relations from which we, in the affluent world, benefit. Present sufferings are in part the legacy of past colonialism, in part the consequence of unfair terms of trade and investment and the mounting burden of debt imposed by the rich countries. These facts create special obligations, to provide restitution for past injustices from which we still benefit, and to
rectify existing relationships of exploitation. Causal judgements are involved here in two
two ways. First, they are necessary to establish how far world poverty really is a consequence of
exploitation and of the economic activities of the rich nations. Second, they are necessary to
establish which attempts to rectify the situation are likely to be most effective. If the aim of
combating starvation is already established, then of course we have to determine which
actions really will promote that aim and which will, for instance, merely reinforce existing
relations of dependence, or encourage a population explosion. In other words, the
investigation of consequences can be relevant if certain moral responsibilities are already pre-
supposed. But this is quite different from supposing that we can calculate, in a moral vacuum,
which course of action will have better consequences on the whole than all the other
conceivable courses of action open to us.

Our more extended responsibilities, then, stem from the special relations in which we stand to
the victims of poverty. As such, they are responsibilities which we share with others, with our
fellow citizens of the rich countries of the world. It is not that I, as an individual, am morally
obliged to shoulder the burden of responsibility for the whole world. My responsibility is
more determinate than that, a responsibility both to urge the Government of my country to
fulfil its obligations, and to play my own part in the fulfilling of them. Finally, there is again
the question of the place which this commitment has within the pattern of my life. How far my
obligations extend is not just a question about the consequences of my actions, it is also a
question about my life.

My second example is the question of active and passive euthanasia. I have, in the previous
chapter, referred briefly to the euthanasia debate. I have agreed with the widely held view that
there is an important difference between voluntary and involuntary euthanasia. Respect for life
must also mean respect for a person’s own considered decision that they wish their life to be
ended, rather than to continue a pointless existence in unbearable pain. There are, I
acknowledged, difficult practical problems concerning the legalisation of voluntary
euthanasia, but a strong reason in support of voluntary euthanasia is that, other things being
equal, a doctor who refuses a patient’s considered wish to die is exercising an unwarranted
degree of power over her and is overriding her autonomy.
What, though, of the cases where euthanasia, if it is to be considered, cannot possibly be voluntary, because the person is in no position to have any wishes one way or the other? Consider the case of babies born with terrible physical and mental defects, such as severe spina bifida. The standard practice now, in this country, is that new-born babies suffering from spina bifida are operated on if the operation offers a reasonable prospect that the child can go on to live a satisfying life. If, on the other hand, the condition is too severe for there to be any such prospect, the operation is not performed, the baby is sedated to control its physical pain, it is fed on demand and made as comfortable as possible, but infections are not treated with antibiotics, and the result is that most such babies die within a relatively short period. This practice is described as a decision 'not to prolong the baby's life', rather than actively terminating its life.

This is of course an application of the general distinction between killing and letting die. In the context of the discussions of euthanasia the terms 'active euthanasia' and 'passive euthanasia' are standardly used. The distinction has been criticised, particularly by philosophers who argue that if someone's life holds out so little prospect of anything worthwhile and so certain a prospect of unbearable pain that passive euthanasia is justified, then active euthanasia is all the more justified. Passive euthanasia may still leave the patient or the baby to endure great pain for days, weeks or even years, and the period is cruelly and unnecessarily prolonged by the refusal to countenance active euthanasia.

I have argued that the distinction between killing and letting die does have a role to play in our moral thinking. The fact that the medical profession wishes to invoke it, and feels more comfortable with a code of practice which allows doctors not to prolong life but rules out killing, is testimony to its appeal. Nevertheless I think we can see the force of the criticisms in this particular case if we bring to bear some of the other considerations which are relevant to our understanding of responsibility. Though it may in general be true that we are not

56 The conclusions formulated in 1988 by the British Medical Association's working party on euthanasia included the following: 'There is a distinction between an active intervention by a doctor to terminate life and a decision not to prolong the life (a non-treatment decision) ... An active intervention by anybody to terminate another person's life should remain illegal ... In clinical practice there are many cases where it is right that a doctor should accede to a request not to prolong the life of a patient' Philosophy and Practice of Medical Ethics (London: British Medical Association, 1988, p. 91).
responsible for people’s deaths simply because we could conceivably have done something to prevent them, the fact is that in the case of passive euthanasia the doctor cannot disclaim responsibility. Two points are crucial. First, it is clear that in cases like that of the spina bifida babies, the intention is that they should die. They are allowed to die, and their infections are not treated, because it is felt that their death will be a merciful release from pain, and that is the intended outcome. It is worth noting that if the babies are demand-fed but are also sedated, they will demand less and the combination of the two practices will therefore hasten death. Again it seems difficult to deny that this is the intention. The second reason why a policy of 'not prolonging life' does not relieve the doctor of responsibility for the death is that saving lives is normally part of her job. The special responsibilities attaching to social roles enter into the picture here. We are not all responsible for saving the lives of everyone else, and there is normally a moral difference between 'not saving life' and 'killing’, but doctors are normally responsible for trying to save the lives of their patients. I am not suggesting that it follows that doctors should always strive to prolong life and that all forms of euthanasia should be ruled out. What I am suggesting is that if, in a particular case, the doctor decides that it is better not to prolong life, then she cannot avoid responsibility for the death. The decision may well be the right one, but she is equally responsible, whether the decision is for active or passive euthanasia. The distinction between 'killing' and 'not saving life' does not carry its usual significance in this case, because of its interaction with the special responsibilities of the doctor’s role. The case of euthanasia, then, provides another example of how we can make sense of moral responsibilities in terms of the interplay between the various factors I have identified. That complex approach is a workable alternative both to simple consequentialism and to simple absolutism.

**Conclusion**

The argument of this chapter reinforces the position I reached at the end of the previous chapter and the claim made there about the special importance of the wrongness of killing. I have argued that the position cannot be undermined by consequentialist reasoning. On the other hand, it cannot be hardened into a pure absolutist position. We cannot rule out the possibility that in extreme circumstances it may be necessary to kill (or even to kill the
innocent) if the consequences of not doing so would be disastrous. We therefore cannot settle the question of whether war can ever be justified simply by invoking such an absolute principle. There nevertheless remains a very strong moral presumption against taking human life, which cannot be overturned simply on consequentialist grounds. War cannot be justified simply by arguing that the good consequences will outweigh the bad. Whether it can be justified in another way, I shall consider in the next chapter.
Chapter 4 – Morality and the Appropriateness of the ‘Just War’ Tradition

The ‘Just War’ Tradition

Consequentialist arguments may be the ones which come most readily to hand to justify the waging of war, but the dominant intellectual tradition of thought about the morality of war has appealed to a different set of concepts. It is commonly referred to as the ‘just war’ tradition. It is an evolving tradition rather than a definitive set of principles, and the tradition has been especially shaped by Christian thinkers. The early Christian church rejected all participation in military activities, but when Christianity became the official religion of the Roman Empire it had to accommodate itself to the realities of political life, and thinkers such as Augustine tried to formulate the conditions under which the waging of war could be consistent with Christian morality. Over the centuries those conditions were more precisely formulated and codified into a body of doctrine that was the official teaching of the Catholic church. The broader tradition has also been taken up to varying extents by all of the Protestant churches. Its secular development is reflected in modern international law, and it informs a great deal of public debate about the rights and wrongs of wars. Political leaders who seek to give moral legitimacy to acts of war will typically appeal to principles and concepts derived from the ‘just war’ tradition, and their critics often employ the same moral vocabulary.57

The tradition distinguishes between two fundamental questions referred to by the Latin phrases *jus ad bellum* and *jus in bello*. The former is the question of what makes it right to go to war. The latter is the question of what it is right to do in war, that is, what means of fighting are permissible. The doctrine of *jus ad bellum* has traditionally specified the following conditions which must be satisfied if the decision to go to war is to count as ‘just’:

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1. The war must be fought for a *just cause*. I shall consider shortly what this might mean.

2. The decision to go to war must be made with a *right intention*. It is not enough that there should as a matter of fact be a just cause; it is also necessary that the war should be declared for that reason, not with ulterior motives.

3. The decision to go to war must be made by a *legitimate authority*. It must be a decision on behalf of the community, not simply the act of private individuals.

4. There must be a *formal declaration of war*.

5. There must be a *reasonable hope of success*. Even if there is a just cause which defines the aim of the war, the evils which the war is bound to involve should not be incurred if there is no hope of achieving the aim.

6. The decision to go to war should be a *last resort*, taken only when the possibilities of achieving the same aim without war have been exhausted.

7. The decision must satisfy the requirement of *proportionality* - that the good to be achieved by the war must be of sufficient importance to outweigh the harms which will be produced.

Even if these conditions are satisfied, there remains a further question whether the conduct of the war is just. The doctrines of *jus ad bellum* and *jus in bello* are distinct, for a party which was justified in going to war in the first place might nevertheless wage war by unjust means. The traditional conditions of *jus in bello* are two:

1. The requirement of *non-combatant immunity*: civilians, as non-combatants, must not be attacked or killed. The fighting must be directed solely against the armed forces of the enemy.
2. The requirement of *proportionality*, applied now to means rather than to ends: the means adopted in fighting the war must not be so harmful and destructive as to outweigh the good to be achieved.

Within this rather varied list of conditions, some are likely to appear more important than others. Two have in fact come to be especially emphasised: for *jus ad bellum*, the requirement of just cause, and for *jus in bello*, the requirement of non-combatant immunity. The traditional phrase 'just cause' is a vague one, and as it stands it might appear to give no guidance at all. Slightly more specific and more helpful is the formulation that war is permissible only if it is fought to right a specific wrong. This at least imposes the requirement that the ruler declaring war must be able to point to the wrong which the enemy has committed, and thus gives something less than *carte blanche*.\(^{58}\) It also draws attention to another important assumption in much 'just war' thinking, namely that waging war can be compared with the imposition of legal punishment.\(^{59}\) I shall return later to the problems with this comparison.

'Just war' thinking has increasingly, and especially in its secular versions, come to focus on one specific justification for war. The wrong which war should attempt to right is the crime of aggression, and the only justification for going to war is therefore as *defence against aggression*. This is the version of 'just war' theory encapsulated in modern international law, and regularly invoked by politicians. It has been presented and discussed at length in an impressive modern restatement of just war theory, Michael Walzer's text *Just and Unjust Wars*, and in critically assessing it I shall in due course refer to Walzer's account.\(^{60}\)

The core idea, then, is that war can be justified in self-defence. In this chapter I shall examine that claim. In the next chapter I shall turn to the most important requirement of *jus in bello*,

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\(^{58}\)See for example Anthony Kenny, *The Logic of Deterrence* (Firethorn, London, 1985), p. 9: 'War, then, must be waged in order to right a specific wrong: that is what gives one the right to go to war, the *jus ad bellum*'.

Augustine, 'Contra Faustum', in R.N. Beck and J.B. Orr, eds, *Ethical Choice: a case study approach* (New York: Free Press, 1970), p. 368: ‘The real evils in war are love of violence, revengeful cruelty, fierce and implacable enmity, wild resistance, and the lust of power, and such like; and it is generally to punish these things, when force is required to inflict the punishment, that, in obedience to God or some lawful authority, good men undertake wars'. For a critical discussion of the comparison between war and punishment, see Jenny Teichman, *Pacifism and the Just War* (Oxford: B. Blackwell, 1986), ch. 5.

\(^{60}\)Michael Walzer, *Just and Unjust Wars* (Harmondsworth: Penguin Books, 1980), hereafter referred to as JUW.
that of non-combatant immunity, and we shall see that the idea of self-defence plays an important role there too. Since appeals to ‘self-defence’ in war are often thought to derive their moral legitimacy at least partly from the comparison with individual self-defence, I shall begin by looking at that case.

**The Right of Self-Defence**

Do individuals have a right of self-defence? Note first that the question is indeed typically formulated in those terms, as a question about *rights*. The right that is asserted here is, more specifically, a right to *kill* in self-defence, and such a right is problematic because of its relation with another supposed right, the right to life. If people have a right to life, how can it be justifiable to kill them in self-defence? The standard answer is: if someone attempts to kill me, my right to life justifies me in killing him if necessary. In other words, the attacker’s right to life is in some way overridden or negated by the defender’s right to life.

This assumption is the starting-point for arguments in support of ‘just war’, and is epitomised in the classic question supposed to be put to conscientious objectors by tribunals: ‘What would you do if someone attacked your sister (or mother or grandmother or some other favoured female relative)?’ The implied answer is ‘Defend her, of course, and so you ought also to be prepared to defend your country, and to kill in her defence’. Note also that the example points to a standard extension of the idea of self-defence: it is assumed that, if it is justifiable to kill one’s attacker in self-defence, then it must also be justifiable to defend someone other than oneself by killing their attacker.

The claim that there is such a right of self-defence is often put forward as an assertion needing no further justification. It will be apparent from previous chapters that I regard such a position as inadequate. There are no self-evident rights. Rights-claims always need some further justification, they need to be defended by appeal to some moral concept more basic than that of rights. To those who make the dogmatic assertion that it is just obvious that there is a right of self-defence I can only offer the dogmatic counter-assertion that it is not obvious to me.
What further justification might be given? A standard approach, in philosophical discussions of the topic, is to look at the distinctive features of self-defence situations to see whether a justification can be found in these. One important feature of such situations is that they involve a forced choice between lives. Whatever is done, someone will die. The only practical question for an agent faced with such a situation is therefore 'Who is it to be?' It might be suggested that this is in itself a justification for killing in self-defence; if someone is coming at me with a knife, then 'it's him or me', and I cannot be blamed for choosing my life over his. The only principle that can be appealed to here, it might be said, is 'Everyone for himself'.

This, however, offers no positive reason for thinking it right that I should kill the attacker rather than that he should kill me. All that is being said is that I can hardly be expected to do otherwise. Many would claim, however, that there is more to be said of self-defence situations. The mere statement that 'it's him or me' fails to distinguish self-defence from other forced choices between lives, including cases where it would surely be wrong to kill in order to save my own life. Suppose that I am in hospital, desperately needing a kidney transplant, without which I will die, but no donor is available. In the next bed is an unconscious patient being kept alive on a respirator. If I pull out the plug when no one is looking, he will die and I can have his kidney. If I resist the temptation, he will survive and I shall die. 'It's him or me', but this hardly justifies me in killing him.

In contrast to such cases, what seems to distinguish self-defence situations is not just the forced choice between lives, but the asymmetry of the situation. Most people would say that, on the one hand, I am justified in killing the attacker to save my own life, but that, on the other hand, if I attempt to do so and his life is then at risk, he would not be justified in killing

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me to save his own life. The moral asymmetry seems to be created by the attacker’s aggression. What account can we give of this?

I have already noted that self-defence is often justified in terms of rights. One possible account might therefore go like this: people normally have a right to life, but the attacker, by his aggression, has forfeited his right to life, and that is why his potential victim, who retains her right to life, has a right to kill in self-defence. In doing so, she would not be violating the attacker’s right to life, since he no longer has such a right.

This idea of ‘forfeiture of rights’ looks attractively neat as an account of self-defence, but it has been criticised convincingly by a number of philosophers.\(^{62}\) It seems to grant too much. Suppose that I can defend myself without killing my attacker, for example by simply running away. Presumably I ought to do that rather than kill him, but if by his aggression he has forfeited his right to life, it would seem to follow that I would have the right to kill him rather than run away. Or suppose that the danger has passed. I have disarmed the attacker. May I now kill him? Surely not, yet if he has forfeited his right to life what objection can there now be to my doing so? The trouble with the ‘forfeiture of rights’ idea is that it links self-defence too closely with punishment. Some people might indeed think of it in that way: if the attacker is killed, he has met his just deserts. In fact, however, self-defence and punishment are importantly different. Punishment requires settled institutions, publicly fixed laws and penalties and impartial judgement. If I kill an attacker and call it ‘punishment’, I am ‘taking the law into my own hands’. It is therefore neither genuine judicial punishment on the one hand, nor self-defence on the other. (The difference between self-defence and punishment is important to bear in mind when I return to the case of war).

Behind the idea of ‘forfeiture of rights’, and the tendency to assimilate self-defence with punishment, there may nevertheless be a sound point, that the moral asymmetry in self-defence consists in the fact of the attacker’s fault.\(^{63}\) I think that the best way to formulate this

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point is in terms of the account of 'responsibility' which I presented in the previous chapter. What is distinctive in self-defence situations is not just that there is a forced choice between lives, but that the attacker is responsible for forcing the choice. That, it may be said, is why, if someone has to be killed, it should be the attacker - because he is the one responsible. I discussed in the previous chapter Gewirth's example of the terrorists who threaten that, if Abrams does not torture his mother to death, they will blow up the city. The example illustrates, I suggested, that what we are responsible for depends in part on what other people are responsible for. That example is in important respects different from the case of self-defence. There, the terrorists' responsibility for creating the situation may make it permissible for Abrams to refuse to kill an innocent person even though such killing might save other lives. In the self-defence case, the attacker's responsibility for creating the situation may make it permissible for me to kill the attacker in order to save my own life. But common to both cases is the feature that someone else's responsibility for forcing the choice between lives may affect my responsibility for the outcome, and hence my justification for what I do. It is not that the other person's responsibility simply removes my responsibility. That way of putting it would be objectionable just as the idea of 'forfeiture of rights' was seen to be. It suggests that because the attacker is responsible, 'anything goes' on my part. That is not so. I still have a responsibility to avoid killing him if I possibly can. And if I have to kill him to save myself, I am still in part responsible for his death. It was not my choice that someone should be killed, but it was my choice, albeit a justified choice, that he should be the one to be killed. I have had to do something terrible, and if I were to feel remorse at his death this would surely be appropriate. The most that I can say is that in one sense I was forced to do it, and that it is his responsibility in forcing the choice that justifies my action.

This line of thought does seem to me to be worth following. But how far will it take us? There is a range of possible cases to consider. The classic case that most obviously comes to mind is of the following kind:

Case 1: I am walking along a quiet street. It is closing time. A man tumbles out of a pub, obviously the worse for drink and spoiling for a fight, and comes at me with a knife. We struggle, and it is obvious that he is too strong for me. He stabs me once and makes to do so again. In desperation I grab a brick lying on the ground and bring it down hard on his head - thereby killing him.
The important feature of this case is that the attacker is culpable in the strong sense that he acts with the apparent intention of killing or seriously hurting me. There are, however, lesser degrees of culpability, short of malicious intent, such as recklessness or negligence. Compare the following case:

*Case 2:* I am a hunter hiding in the bushes and watching for a rabbit. I realise that another hunter is approaching, and is recklessly firing into the bushes at everything that moves, in the hope of hitting something. There is no way I can warn him of my presence, for if I make any noise or movement he'll shoot immediately. The only way I can stop him shooting me is to shoot him. Would I be justified in doing so?

I doubt whether there is any clear consensus of moral attitudes which we can appeal to in considering this example. The case may come more clearly into focus, however, if we first consider some others. Examples which are offered in the philosophical literature in this area, like case 2 itself, tend to be rather artificial or fantastic, and that fact is not without significance, as I shall suggest in a moment. First, however, let me try to imagine some examples with as much realism as I can muster:

*Case 3:* A criminal gang wants to kill me (perhaps I'm a shopkeeper who refuses to pay protection money). Rather than do it themselves, they force one of their other 'clients' (a fellow shopkeeper whom I know) to do it. They kidnap his wife and children and tell him that if he wants to see them alive again, he has to assassinate me. Am I justified in killing him in self-defence?

The problem here is that if we want to say that I am forced to kill to defend myself, we also have to acknowledge that he too is being forced to do what he does. If 'responsibility' is the relevant consideration, he is no more responsible for the situation than I am. As it is regularly put in the philosophical literature, he is an 'innocent aggressor', in contrast to the attacker in case 1 and the reckless hunter in case 2:

*Case 4:* Again, the gang is out to get me. I am hiding from them. A passer-by is about to stumble on my hiding-place, thereby exposing me and making it inevitable that I shall be killed. Only by killing him can I prevent this. Should I kill him?
In this case the passer-by is not responsible for the danger I am in, nor is he even an aggressor. He is, however, in the standard terminology, an 'innocent threat'.

Again, I doubt whether there is any consensus about what it would be permissible to do in these cases. Some would say that there is a right to kill in self-defence in cases 3 and 4. It is difficult, however, to identify a relevant difference between killing the innocent aggressor or killing the innocent threat in these examples, and killing the potential kidney-donor in my earlier example. It might be said that the man in the next bed whose kidney I need is not a threat, and that is why I cannot kill him, whereas the forced assassin in case 3 and the passer-by in case 4 are both a threat to my life. But what does this amount to? In the absence of any culpability on their part, their being a threat to me consists of no more than a causal fact: their behaviour is liable causally to contribute to bringing about my death. They would be responsible for my death only in that limited causal sense. It can, however, be said of the potential kidney-donor that if he survives, I'll die as a consequence, and thus his death or survival is a causal condition for my survival or death. The only difference seems to be that he is not doing anything which will causally lead to my death, whereas it is the actions of the innocent aggressor and the innocent threat which play the causal role. I have previously taken the view that in some contexts the distinction between action and inaction can make a moral difference, but I must say that it is difficult to see how the distinction can carry so much weight in these cases, where the actions of the innocent aggressor and the innocent threat are so minimally theirs.

I shall consider in a moment one other thing which might be said about these cases, but first I want to look at a further case, where responsibility in a strong sense is a relevant feature. 'Lifeboat' examples are popular in the literature.

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64 This is the position which Thomson takes in 'Self-Defence'.

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Here is one:

Case 5: The ship has gone down, and there are twenty of us crowded into the lifeboat - too many to offer any reasonable chance of survival. Someone has to be thrown out. One of the twenty is the ship's navigator, who was responsible for the disaster (he was drunk while on duty and failed to spot the iceberg). Since he is the person responsible for our predicament, should he be the one whose life is to be sacrificed for the rest?

Although there is no doubt where responsibility lies in this case, many would see it as importantly different from our classic case 1. Maybe someone has to be thrown out of the lifeboat if anyone is to survive, but to choose the navigator on the grounds that he is responsible for creating the situation would be seen by many as simply vindictive, in contrast to the killing of the attacker in case 1. It looks like a reversion to the idea of punishment rather than self-defence - and again a 'punishment' without the judicial context which would make it a genuine and justifiable one. However badly the navigator has acted, and however responsible he may be, that is now in the past, it might be said, nothing can now be done about it, and it should not determine the present decision. This suggests that what justifies killing the attacker in case 1 is not just the fact that the attacker is responsible, but also the immediacy and urgency of the threat.

I suspect that this is reflected in the impatience which many students tend to feel when they encounter the examples offered by philosophers to illustrate the permissibility of killing in self-defence. Of many such examples it is likely to be said, 'But there is always something else one can do - one doesn't have to kill the attacker'. A standard philosophical response will be, 'But suppose that there isn't any alternative'. As a defence of the use of extreme examples in philosophical argument in order to test a thesis, this is fair enough - but I must say that I have some sympathy with the non-philosophical reaction. In most cases where one's life is threatened, there are possible ways of trying to save one's life other than by killing the person who is a threat to it. The cases where this can most plausibly be said not to be so are those, like case 1, where the threat is so immediate that all alternatives are excluded. That is why

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65 For a similar example see Wasserman, 'Justifying Self-Defence', p. 367.
66 The significance of the difference between present aggression and past aggression is discussed by Wasserman op cit.
killing in self-defence is most likely to be justifiable in cases like case 1; and insofar as there is any degree of justification for killing in cases 2, 3 and 4, in contrast to case 5, this will again be because of the immediacy of the threat.

I am led to the conclusion that the two most important features of self-defence situations, in addition to their involving a ‘forced choice’, are ‘responsibility’ and ‘immediacy’. Where the two features combine, as in case 1, the justification for killing the attacker is strongest. As the responsibility of the attacker, or of the person posing the threat, diminishes (as in cases 2, 3 and 4), so the justification for killing in self-defence diminishes. And as the immediacy diminishes, so again the justification diminishes (as in case 5).

Given this combination of ‘responsibility’ and ‘immediacy’, it can be said that one who kills in self-defence is ‘forced’ to do so in a fairly strong sense. I have noted that she still, in some sense, has a choice, but the choice is drastically circumscribed by the attacker’s action and by the immediacy of the threat. I am therefore inclined to say that the justification for killing in self-defence belongs more in the realm of necessity than in that of justice. Recall the point that it would still be appropriate for one who has killed in self-defence to feel great remorse at having done so. The more self-defence is separated from the idea of punishment, and from that of the ‘forfeiture of rights’, the less scope there is for thinking that, when someone has killed an attacker in self-defence, ‘justice has been done’. The more fitting account for the self-defender to give of her action would be ‘I had to do it - I couldn’t help it’. These doubts about the appropriateness of the language of ‘justice’ for self-defence obviously have implications for the idea of a ‘just war’, and I shall describe those implications later.

There remain two further questions to consider. First, can the justification for killing in self-defence be extended to include defending things other than one’s life? Most people’s answer would be, I imagine, to set pretty strict limits to this. Someone might be entitled to kill an attacker who threatens to rape her, or kidnap her, or enslave her, but I doubt whether the justification would be thought to extend much further than this. Note, in particular, that it is implausible to set up a general and undifferentiated right to kill in defence of one’s liberty. ‘Defending one’s liberty’ could cover a vast range of possibilities. Kidnapping or enslaving are extreme threats to a person’s liberty, but there are many other freedoms which, though
certainly desirable, are a great deal more trivial. A farmer who blocks a right of way across his field, and thereby prevents me from enjoying a favourite country walk, may be unjustifiably restricting my freedom, and I may find this intensely annoying, but to shoot him and declare that I am ‘defending my freedom’ would be absurd. The need to break down the general category of ‘defending one’s liberty’, and to look much more closely at the different kinds of freedom which might be involved, will again be important when I turn to the case of war. The idea of a right to kill in defence of one’s property is similarly problematic. I suspect that this would be the most contentious area, and some would insist that there is indeed such a right. Whether or not this is so, it would be extremely implausible to cast it very widely. To adapt my previous example, if there is no right of way across the farmer’s field, and I am trespassing, he would have no right to shoot me to ‘defend his property’.

This sense that there are strict limits to the right of self-defence, and that it cannot be extended very far beyond the right to kill in defence of one’s life, is reinforced by the account I have been giving of self defence. I have emphasised the idea of a ‘forced choice between lives’. In other supposed cases of self-defence, the element of ‘forced choice’ may indeed be present - I have to choose, say, between killing or losing my property - but it is not a forced choice between lives, and an analogous justification for killing can be sustained only if I am threatened with the loss of something which has a value of the same order as my life. Furthermore, in many of the possible cases to which I have referred, one would be faced with a ‘forced choice’ in a less strong sense, because the immediacy of the threat would be less. Cases where someone is about to be raped or kidnapped or enslaved are closest to the case of a threat to one’s life, because the danger with which the person is threatened is, or may be, similarly final and irreversible. This is much less true of other cases, such as the defence of one’s property, where the possibilities of future redress make it much less plausible to suggest that ‘there is no alternative’ to killing in order to meet the threat. Although, therefore, in all these cases of defending something other than one’s life, the feature of the attacker’s responsibility is present, this is not by itself sufficient to justify killing the attacker if the other relevant features of self-defence are absent.

It could be argued that if an attacker’s attempt to restrict my liberty or seize my property is backed by a threat to kill me unless I comply, the case is converted into one of a threat to my
life and thus generates a justification for me to kill in self-defence. Consider the following argument:

Suppose that one discovers a burglar in the process of stealing valuable possessions from one’s home. Although this is perhaps controversial, most of us believe that it would not be permissible to kill the burglar to prevent him taking the possessions, for that would be a disproportionate response to the threat. One is, however, entitled to take certain steps to resist the theft. Suppose, however, that the thief threatens to kill one if one resists. In that case one is permitted to create the conditions of one’s own lethal defence. For the thief’s threat does not nullify one’s right to resist. Indeed, it seems that, as soon as the thief structures the situation in such a way that the attempt to defend one’s possessions automatically creates a need for self-defensive killing, one’s right to self-defence is immediately activated. One is permitted to kill the thief even without first provoking him to attack by attempting a non-lethal defence of one’s possessions.67

This argument seems to me to depend on a conflation of the two distinct rights - the right to resist the theft, and the right to defend one’s life. The conflation may seem plausible, for, if once I have resisted the theft and the thief tries to kill me, I am justified in killing in self-defence, why should I wait for him to start? If I am justified in killing in self-defence at the second stage, and if I will be put at a disadvantage by waiting till the second stage, and if the second stage will be created by my legitimate exercise of my rights at the first stage, then why not say that I have a right to kill in self-defence at the first stage? The trouble is that this conflation of the two rights obscures the crucial question of whether and to what extent I am faced with a forced choice. The fact is that at the outset I am not forced to choose between killing the attacker or being killed. I can avoid both options by sacrificing something else. We therefore have to consider what it is that I would have to sacrifice, and how important it is in comparison with the alternatives. If someone approaches me in the street and asks for money to buy a cup of coffee, and then, when I refuse, whips out a knife and demands the money, it would be absurd to suppose that I am then justified in killing him to defend my property. If I can avoid the choice between his life and mine by parting with 50 cents, then of course I should do so. The choice facing me at that point is not ‘his life or mine’, it is ‘taking his life or parting with 50 cents’. When we are considering whether killing is justified in defence of

something other than one’s life, we cannot avoid the question of what is being defended, and whether it is of sufficient importance to justify killing. That remains the case even if the attacker’s demand is backed up with a threat to one’s life.

The other remaining question is whether the justification for killing in self-defence can be extended to a justification for killing an attacker in order to defend someone else’s life. The two kinds of justification would seem to stand or fall together; if I am justified in killing to save my life, then surely also someone else is justified in doing the same thing on my behalf. I think that this is basically right, but the relation between the two cases is slightly more complicated than that. In both cases, there is a forced choice between lives in the sense that either the victim or the attacker will have to be killed, and in both cases the attacker is responsible for creating the ‘forced choice’ situation. To that extent it can plausibly be claimed that a third party, like the victim, has a right to kill the attacker in defence of the victim’s life. A further question which arises, however, is whether a third party positively ought to defend the victim against the attacker, whether indeed the third party has not just a right, but also an obligation, to do so. If I am a bystander, the situation is not a ‘forced choice’ in quite the same sense as it is for the victim; the choice is not forced on me. The immediacy of the threat, which creates the necessity for the victim to act, does not impose the same necessity on me. To that extent it might be thought that some further reason is needed to justify why I should intervene in a situation which affects someone else. As we saw in the previous chapter, it cannot be automatically assumed that there is always an obligation to help anyone who is in need. However, if there is ever an obligation to aid, there is surely such an obligation in a situation of extreme emergency where someone’s life is threatened and I am the person best placed to defend it. A further difference between self-defence and other-defence which might be thought to support the idea of a third-party obligation to assist is this: if my life is threatened, then, although I may have a right to kill the attacker to defend my life, it is up to me to choose whether to exercise the right. It is my life, and therefore, if I choose to sacrifice my life rather than kill the attacker, I am entitled to do so. I have a right but not an obligation to kill in defence of my own life. For a third party it is different; it is not her life that is threatened, and therefore she is not in the same way entitled to sacrifice it. To that extent it may be said that she has an obligation to try to defend me if she can, even though I do not have an obligation to defend myself.
A further complication would be created if she could defend my life only by risking her life. Rather than a forced choice between two lives, we would then have a complex set of relations between the risks to the three lives. I will not try to describe the complexities, but common sense suggests that someone else’s obligation to kill the attacker in order to defend my life is lessened if her doing so would pose a threat to her own life.

My discussion of the right to kill in self-defence has been in some ways inconclusive, but the main conclusion which I do want to draw is that that right is severely circumscribed. The only cases where I think that such a right can unproblematically be recognised are those situations where there is a ‘forced choice’, the attacker is morally responsible for creating that ‘forced choice’ situation and the threat has an immediate urgency. Even in such situations the attacker has not forfeited his own right to life, the act of killing him is not a punishment and to that extent it is more appropriately seen not as an act of justice, but simply as an inescapable necessity. Though the right to kill in self-defence is not limited to the defence of one’s life, it does not extend much beyond that case, and it extends only to cases where what is being defended is of broadly comparable importance. In the light of this discussion I will now turn to the case of war. Can the limited justification for killing in self-defence also provide a justification for killing in war?

**Defending the Political Community**

The possibility of such a justification depends on drawing an analogy between an individual’s right of self-defence and a political community’s right to defend itself. This analogy is explicitly presented by Walzer, and is central to his restatement of ‘just war’ theory:

Over a long period of time, shared experiences and cooperative activity of many different kinds shape a common life. ‘Contract’ is a metaphor for a process of association and mutuality, the ongoing character of which the State claims to protect against external encroachment. The protection extends not only to the lives and liberties of individuals but also to their shared life and liberty, the independent community they have made, for which individuals are sometimes sacrificed ... Given a genuine ‘contract’, it makes
sense to say that territorial integrity and political sovereignty can be defended in exactly the same way as individual life and liberty (JUW, p. 54).

Walzer’s analogy is carefully crafted. Self-defence, by the individual or the community, is justified as a defence of rights. The most fundamental rights of individuals are the right to life and the right to liberty. The collective analogues of these are the right to territorial integrity and the right to political sovereignty (sometimes he speaks of these as the rights of the State, sometimes as the rights of the political community, which it is the State’s job to protect). The right to territorial integrity is the community’s right to life, its right to go on existing as a community, defined by its borders. The community can of course survive minor violations of its borders, but if the territory is overrun then the community ‘dies’. The right to political sovereignty is the community’s right to liberty, its right to control its own political life. Internally the community may be markedly authoritarian, but if it is a genuine community whose political life is shaped by its own distinctive shared traditions and shared culture, then it has the right to go on working out its own political destiny in its own way.

Just as the individual right of self-defence entails also the right of other individuals to defend the victim of an attack, so also, according to Walzer, a community’s rights of territorial integrity and political sovereignty can be and should be defended by other States. States are themselves members of an international society, defined by the recognition of these rights. Any act of aggression against an individual State is also a crime against the international order, and as such it should be resisted and punished. Notice that Walzer uses the traditional judicial language of ‘just war’ theory: war against an aggressor is the punishment of a crime. This leads him to a strong conclusion: resistance to aggression is not only morally permissible but also, normally, obligatory. There is a:

presumption in favor of military resistance once aggression has begun. Resistance is important so that rights can be maintained and future aggressors deterred. The theory of aggression restates the old doctrine of the just war: it explains when fighting is a crime and when it is permissible, perhaps even morally desirable. The victim of aggression fights in self-defence, but he isn’t only defending himself, for aggression is a crime against society as a whole ... All resistance is also law enforcement (JUW, p. 59).
This, then, is Walzer's extended analogy between the rights of the individual and the rights of the political community. Can it provide a justification for war as self-defence?

The first thing to be said is that it is, as it stands, only an analogy. As such, I do not think it can do the work of justification. The right of individual self-defence, if it justifies anything at all, justifies the killing of the attacker to defend the life of the victim. In attempting to justify a war of self-defence, what we have to justify is, again, literal killing, the taking of hundreds, thousands or even millions of human lives. According to the self-defence analogy, however, what are being defended are not literally lives, but their collective analogues, the life (and freedom) of the community.

Suppose we take the analogy seriously and follow it through consistently. This will mean substituting the collective analogue for the individual case throughout the argument. Therefore, just as the defence of the individual's right to life and liberty will justify overriding the attacker's right to life and liberty, so also the defence of the community's rights to territorial integrity and political sovereignty will justify overriding the aggressor community's rights to territorial integrity and political sovereignty. That, however, is not, of course, what we were supposed to be arguing for. We needed a justification for killing to defend the community. The analogy, understood strictly as an analogy, cannot provide one.

Suppose instead, that we go beyond a mere analogy. Individual self-defence is supposed to justify killing the individual attacker. Collective self-defence is supposed to justify killing large numbers of people in the aggressor community. What is being defended would therefore have to be, literally, the lives of people in the victim community. Only something like a defensive war of resistance to genocide could be justified in this way. If we are looking for a direct rather than merely analogical parallel with individual self-defence, the protection of lives on a massive scale would have to be invoked to justify the equally wholesale killing which military resistance entails. I noted in the discussion of individual self-defence that the right of self-defence could be extended to include defence against the threat of other extreme harms such as rape or kidnapping or enslavement (though not just any threat to one's freedom or property). Certainly, military aggression does sometimes take the form of the threat of mass
enslavement or other such atrocities, and the individual right to kill in self-defence could then be directly invoked, but this is different from a right of military resistance to invasion as such.

It might be said that the reality is likely to be somewhere between these two extremes, combining elements of both literal and analogical self-defence. The aggressors may not be embarked on a war of genocide, but in invading a country and violating its territorial integrity they are also engaged in attacking and killing its defenders, and therefore, it may be said the defenders are justified in killing in return, in order to defend their country. However, this attempt at a justification would beg the question. In some cases the aggressors will kill only because they are resisted. If there were no resistance, they could invade without having to take any lives. It is precisely this resistance that has to be justified. As I argued in discussing individual self-defence, the fact that unjust demands are backed up by lethal threats does not by itself justify killing in response; it depends on the importance of what is defended. In other cases the aggressors may be an undisciplined army, running amok and pillaging and looting. Or the invasion may be a product of long-standing ethnic rivalries, and the invaders may be keen to settle old scores. Or it may be an attempt to impose a new political regime, and the invaders may see it as their task to round up political opponents for summary execution or interrogation and torture. In all such cases it may be said that the defenders have a right to kill in self-defence. But the collective analogy, the appeal to rights of territorial integrity and political sovereignty, plays no role here. The appeal is to individuals’ rights of self-defence (albeit on a large scale), and the moral questions are then whether the right to kill in defence of one’s life can be extended to killing in defence of one’s property, or to protect oneself against unjust imprisonment and torture, or whatever.

I suggest that if ideas of territorial integrity and political sovereignty are to play a significant role in the moral argument, we would have to move beyond the self-defence analogy. What would have to be shown is that the life of a political community is itself, in its own right, something worth defending, and indeed so valuable as to justify killing in its defence. That, I suspect, is what Walzer would, in the end, want to say, and the parallel with individuals’ rights to life and freedom would then become relatively incidental. In the passage from which I have already quoted, Walzer says:
The moral standing of any particular State depends upon the reality of the common life it protects and the extent to which the sacrifices required by that protection are willingly accepted and thought worthwhile. If no common life exists, or if the State doesn’t defend the common life that does exist, its own defence may have no moral justification (JUW, p. 54).

Part of what is being said here is, I suggest, that the citizens’ willingness to sacrifice their own lives for the life of the community is itself a measure of the value and importance which they attach to it, and an indication that they are justified in defending it. But what has to be shown is, of course, not just that the political community is worth dying for, but that it is worth killing for. Walzer and others might say that the one follows from the other: if the common life is felt by its citizens to be worth dying for, that itself shows that it is of sufficiently great value to justify them in killing in defence of it. This might do as a start. Negatively, at least, if the life of the community is not worth dying for, it could hardly be worth killing for. The stronger positive claim, however, does not automatically follow. Further argument is needed. I want now to consider what form that argument might take, and whether it is good enough. Why does the life of a political community matter, and does it matter enough to justify killing in its defence?

It will be as well to note at the start just how much that argument would have to do. I have tried to establish in previous chapters the central place occupied in my moral thinking by the idea of respect for life. The wrongness of taking human life may not be an absolute principle, but it is one which can only very rarely and exceptionally be overridden. Perhaps it can be overridden in cases of literal self-defence against certain death, but any other case would have to be of the same order. So, although we have set aside the appeal to a formal analogy between individual and collective rights to life, the ‘just war’ theorist would have to show that the life of a political community has a value comparable to that of human life itself, and that a threat to the one is of the same magnitude as a threat to the other, in order to override the very strong principle of the wrongness of killing.

Next we have to note an obvious dissimilarity between the two cases. I have referred previously to the idea of the uniqueness and irreplaceability of an individual human life. There is truth in the cliché of the finality of death: once you’re dead, you’re dead, and nothing
further can then compensate for the loss. This is why a threat to one’s life is such as to justify exceptional measures. A threat to the life of a political community is not like that. If a country is invaded and conquered, this may in some sense spell the ‘death’ of the community, but such a death does not have the same ‘all or nothing’ character. In extreme cases the conquering forces may set out to obliterate the culture of the conquered. Even then the community’s traditions and the way of life may be revived, perhaps in exile. Or they may go underground, preserved in secret. What is more likely is that the indigenous community’s political, social and cultural life will persist after the conquest, but in an attenuated form. Political life in particular may be severely restricted, people may engage in it at great risk to themselves, but there remains the hope of its future revival and flourishing. As we shall see, I certainly do not want to suggest that these things do not matter. Nevertheless, the conquest of a community is in these ways importantly different from the death of a person, and to that extent killing in defence of the community will be that much harder to justify.

One other initial caveat is necessary. There is no doubt that an attachment to the life of the political community can assume an enormous importance for its members. People do identify fiercely with national and other communities; the very history of warfare over the centuries is testimony enough to that. We also know, however, that such loyalties can take distorted and unauthentic forms. Notoriously, the historical record provides numerous examples of monarchs, dictators, revolutionary leaders and governments facing re-election who deliberately create an external threat in order to counter internal divisions and cement the loyalty of subjects. The relation between communal loyalty and military defence is then reversed, and the latter gives rise to the former instead of vice versa. Political leaders can create an enemy. They can deliberately provoke a conflict with another country, declare that the community is under threat, and exploit their subjects’ fear and ignorance in order to generate a communal loyalty.

Admittedly such loyalties cannot be created out of nothing. They can be created only if, in some way, they answer real psychological needs. There are, however, both authentic and unauthentic ways of meeting such needs. There is, in particular, the phenomenon which

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68In this respect it is different also from the death of the species - the threat posed by nuclear war, which Jonathan
psychologists call 'bonding by exclusion' and existentialists call the need for 'the Other'.

People often feel they 'need' to identify an enemy. The underlying need is for confirmation of one's identity, and this need can in part be satisfied by the sense of security which comes from belonging to a group. The strongest confirmation of this belonging comes from the sharing of a common enemy. 'We' are defined in opposition to 'them'. The enmity, however, may well be spurious. There may well be no objective grounds for hostility; the hostility may be imagined simply because it meets the need for an enemy. And that need arises only because the need for a sense of identity is not met in more genuine ways, through a positive sense of achievement in the active pursuit of a common purpose. This kind of communal loyalty, then, I call 'inauthentic'; it rests on illusion, rather than on any real participation in and appreciation of a common life.

My task, then, is to consider what is authentic in the value attached to the life of a community, and in particular of a national community. It will be authentic only if it is not undermined by a true understanding of its nature. Some of our desires and attitudes are ones which we have only because we are mistaken about the real nature of our beliefs and motivations; other desires and attitudes are not like that. The question is how far communal loyalties come into the latter category. And if we can make progress in answering that question, we shall be in a better position to estimate how important the life of a political community is, and whether it can justify war and killing in its defence.

The Life of a Political Community

We have seen that Walzer sometimes uses the language of the 'social contract' to describe people's attachment to an authentic communal life. 'Contract,' he says, 'is a metaphor for a process of association and mutuality, the ongoing character of which the State claims to protect against external encroachment'. It is, however, a very limited metaphor, and I think Walzer would acknowledge that it does not properly capture the status which he thinks that a community has for its citizens. The 'social contract' theory in its classic form sees the

Schell calls 'the second death' in his The Fate of the Earth (New York: Knopf, 1982).
community as an instrumental good, something which its members accept as a means to the protection of their individual lives.\textsuperscript{69} The ‘state of nature’ would be replete with disadvantages. In the absence of social restrictions, each individual would be constantly prey to the threats posed by others, and would live in perpetual fear and distrust; therefore it is in each individual’s interests to agree to accept such restrictions. Implicit in this account is the assumption that the things worth living for, and therefore needing to be protected by the social contract, would already be identifiable in the state of nature, prior to any acceptance of community membership.

The contract theory, I suggest, makes it difficult to see how people could ever rationally regard their loyalty to a community as something worth sacrificing their lives for. If the point of participating in communal life is simply to protect one’s own individual life, then the only acceptable sacrifices would be ones which furthered that good. In that case it would seem to be irrational to give up one’s own life in order to protect the communal life. The most that could be said is this: that people’s individual lives can be protected only if they enter into membership of the community and accept the obligations which it imposes, and that these obligations must include an obligation to give one’s life in defence of the community if necessary, for only if everyone accepts the possibility of having to do this can the community protect its members. The risk that you may have to give your own life is the price that you pay for the probability that your life will be protected. In that case, however, the thought of someone who, as it turned out, had to sacrifice his or her life for the community could not be ‘this is something worth dying for’, but only ‘It’s the luck of the draw’. And it is debatable whether contract theory can really treat even that thought as rational. Given the assumptions of the theory, it could be argued that the only rational response for the individual in that situation would be ‘This is where my allegiance ends. I agreed to accept the obligations in order to protect my own life, but if those obligations now require me to sacrifice my life, there is no good reason why I should keep the agreement’.

To defend a position such as Walzer’s, then, we should, as I think Walzer does, move beyond contract theory to an alternative perspective, that of what has been called the ‘communitarian’ tradition. With philosophers such as Aristotle and Hegel, we should have to say that ‘a human being is (not only an individual, but also) a political (social) animal’. One’s membership of a community enters into, and is partly constitutive of, one’s identity as an individual. The things that are worth living for include things which one can recognise and value only as a member of a community, and to lose them would be to lose part of what makes one the person one is. As I argued in the first chapter, only by means of a shared language can we give meaning to our experience, creating a picture of the world and of what is of value in it. So in acquiring the language of a community, we acquire values and a way of thinking about our lives and what is important in them. To identify ourselves with those values is to identify ourselves with the linguistic community from which we derive them and with which we share them. Equally important for our sense of identity are our various particular relationships and allegiances. Each of us exists within a network of relations with parents and children, friends, colleagues, and neighbours, with social groups and political and cultural movements, and these relationships make up the distinctive texture of one’s life and make it a life worth living. Even the hermit, or the line embattled artist or thinker, can do what s/he is doing only within a religious or cultural tradition.

All of this is true and important, and it repeats things that I have maintained previously in this thesis, but it does not yet give the ‘just war’ theorists what they need. They have to assert the importance not only of communal allegiances in general, but of one particular kind of community: the nation, a community defined by its territorial boundaries. The kind of self-defence which they are concerned to justify is the defence of borders, and they have to show that the community identified by its borders is of such a kind as to justify killing in its defence. Can this be done?

My first suggestion might be that, since the nation is defined by its territory, the inhabitants’ allegiance to the nation grows out of an attachment to the land itself, the ‘homeland’. It is, perhaps, a love of place which makes people attach an importance to the nation. That,

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70 Aristotle, Politics, I.2.
however, cannot be the whole story, for it immediately raises the question: which place? Where are the borders to be drawn? What kind of place constitutes the territory of a nation? Not just any location will do, as the following exchange from James Joyce’s *Ulysses* demonstrates:

- But do you know what a nation means? says John Wyse
- Yes, says Bloom.
- What is it? says John Wyse.
- A nation? says Bloom. A nation is the same people living in the same place.
- By God, then, says Ned, if that’s so I’m a nation for I’m living in the same place for the past five years.  

At this point we might combine the idea of territory with the idea, already mentioned, of the importance of language. Perhaps what makes a particular geographical area the territory of a nation is its being the land of a people who are united by a shared language. The stress on language is to be found in the classic theorists of nationality such as Herder. Language assumes this importance for reasons which we have previously noted. A language is the repository of shared ideas and a shared way of apprehending the world. Each language has its own literature, embracing not only ‘high’ culture, but also popular literature of all kinds. The possessors of a language thereby inherit a cultural tradition which shapes their thoughts and feelings. The very fact of being able to communicate is a bonding mechanism. People who can understand one another are thereby enabled to empathise with one another and to feel united, people who do not share that understanding feel excluded. This is negatively attested to by that deep sense of alienation which will be recognised by anyone who has ever been in a country where they knew nothing of the language.

I want first to acknowledge the power of these two ideas, of the importance of shared territory and the importance of shared language. It is undeniable that people can feel a strong sense of attachment to a place. This is to be distinguished from the feeling of enjoyment or appreciation of a beautiful or impressive landscape, for such an appreciation is something which anyone can feel about any landscape, it is not specifically a response to a place which is one’s own. Australians may enjoy the Australian Capital Territory, visiting Japanese may

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admire the Great Barrier Reef and so on. What is quite different from this is the sense of a particular landscape as one’s home, as a familiar environment imbued with associations which make it one’s own, the place where one belongs. When people strive to defend their country, such feelings may well be in play.

However, though this is part of what goes into the making of attachment to a country, there is no reason why the locality which one feels to be ‘home’ should coincide with the locality enclosed by the boundaries of a nation-state. It is quite likely to be much more localised. Such feelings of ‘attachment to place’ are at least as likely to be regional attachments, produced by a relatively small area with a distinctive ‘feel’ and character of its own. Even more particularised, and equally typical, would be one’s attachment to the particular town in which one was brought up, whose buildings and streets are intensely familiar and are intimately associated with events and phases of one’s life. It may be that these various more particularised attachments may combine into a sense of attachment to the distinctive natural and human environment of a whole country. Thus, the traveller returning from abroad may recognise again the particular ‘feel’ of Australia, the scale of the landscape, and the characteristic interrelation between town and country. Still, this does not furnish any special and unique status for ‘the nation’ in contrast to narrower or wider localities. There is no reason why loyalty to a nation, insofar as it is built on attachment to a place, should be any greater than loyalty to other localities.

Turning now to the case of language, I find also that the match between languages and nations is highly imperfect. This is most blatantly true of those nations which are ex-colonies. The territorial boundaries of many of the countries of Africa, for instance, are simply the arbitrary creations of colonisers, lines drawn on a map, which do not coincide at all with the linguistic and ‘tribal’ divisions. An earlier generation of ex-colonies, the countries of Latin America, are with the exception of Brazil, all Spanish-speaking and therefore not differentiated by language. But even among the older-established nations, such as those of Europe, there are polyglot nations such as Belgium and Switzerland and there are languages shared by different nations. Switzerland, to take but one example, has three languages, one of which is shared with Germany and with Austria. Therefore, though the bonds created by the sharing of a language may be important, they do not coincide with loyalty to a nation.
It might be counter-argued that where the territory of a language fails to coincide with the territory of a nation, this simply shows that the national borders are in the wrong place. ‘Real’ nations, it might be said, are linguistically homogeneous, and if some of the existing ‘nations’ do not have one distinctive language, they cannot all be real nations. Perhaps Belgium is really just a bit of France and a bit of the Netherlands cobbled together. Perhaps Wales is not really a part of the United Kingdom, but a separate nation, since it possesses its own language. Certainly this is an influential line of thought, which has inspired various bids for nationhood. It is, however, a line which is doomed to impracticality, for the fact is that languages and nations could never properly coincide. Languages cannot possibly have the precise boundaries which a nation has to have. Where are the territorial boundaries of Wales which is defined by the Welsh language? We should have to settle on a fuzzy boundary vaguely separating rural north and mid-Wales from the industrial south, and since many Welsh-speakers are fully bilingual, the boundary would also have to go through the middle of their heads.

The relation between a language and a culture is also highly imprecise. As I have noted, certain forms of cultural tradition are closely tied to a language, and this is most obviously true of literary traditions. There is a tradition of English literature, and people whose literary experience is primarily within the English language could be said to inherit, with that tradition, a range of attitudes and sensibilities which may contribute importantly to their sense of their cultural identity. Even in the case of literature, however, there are problems. Are ‘the English novel’ and ‘the Australian novel’ two separate traditions, or one? Is James Joyce an ‘English’ novelist? What about the Anglophone literatures of former British colonies? These are familiar conundrums, and for the literary theorist they may not in the end greatly matter, but they are fatal to the case for equating national identity with cultural identity. When we move beyond literature the case becomes even weaker. Other artistic forms, such as music and the visual arts, may include national schools (the Italian renaissance, French impressionism, the various ‘national’ composers of the late nineteenth and twentieth centuries), but they have also always been resolutely international. And when it comes to ‘culture’ in the wider sense, the equation with nationality is even less tenable. I have argued in chapter 1 for the importance of language as the repository of moral criteria. This certainly does not mean, however, that the members of a nation or even the speakers of a common language will
typically share the same practical moral attitudes. The moral criteria contained within a language are always variously interpreted and applied. Thus, people who in one sense share the same moral language can use it as much to disagree as to agree with one another, disputing for instance whether abortion is or is not ‘murder’, or whether inequalities of wealth are or are not ‘unjust’. Within any nation there will always be conflicting moral views about sexuality, or the taking of life, or the proper balance between freedom and restraint. Certainly in the modern world the cultural diversity within nations is immediately visible, not only in people’s moral attitudes, but also in other aspects of their way of life. Every nation contains diverse sub-cultures, and the precise mix is constantly changing with modern patterns of immigration and labour mobility. Some would say, of course, that this is itself objectionable - that the emergence of new sub-cultures in Australia, for instance, formed by communities with Asian origins, constitutes some kind of disruption of the ‘unity’ of the ‘nation’. This is nonsense. There never was a unified Australian culture. The newer kinds of diversity have merely replaced older kinds, regional diversities, for instance, which have been eroded by modern forms of mass communication. In short, the identity of a nation cannot be constituted by its culture alone.

My point is, then, that though attachments to a place, and to a language and a culture, are important elements in people’s identity, they cannot justify any ethically privileged status for the defence of territorial boundaries. Nobody would suggest that people should fight and kill for the sake of the Australian Capital Territory, however deep their attachment to this locality; why, then, should we fight and kill for Australia? It is an important part of my sense of who I am that I speak and think in English, but this linguistic and cultural inheritance is one which I share with the inhabitants of other countries including most of North America; why should it justify my fighting and killing to maintain the existing territorial boundaries of Australia? Attachments to place and to language and culture might reinforce people’s sense of national identity, but they cannot be its primary constituent. If we could identify some more fundamental reason why people should and do set very great value on their membership of a nation, we could then recognise how this could be given greater emotional force by their affection for the land, the language and the culture of their nation. But we have not yet done so. We have not yet, therefore, found any satisfactory reason to justify the taking of life in defence of a nation.
Political Sovereignty

We saw that Walzer identifies two rights of political communities, the right to territorial integrity and the right to political sovereignty. Communities are said to be justified in defending themselves insofar as they are defending these rights. My argument so far has emphasised the former of the two, and I have been suggesting that the territorial borders of nations do not necessarily demarcate the kinds of shared life which are of value. At this point we should perhaps turn from territorial integrity to political sovereignty. The two cannot be entirely separated, for the kind of self-defence which I am discussing is the defence of borders, but perhaps what is important about borders is simply that they protect political sovereignty. Perhaps we just have to accept that the location of the borders is relatively arbitrary, but wherever they are, it may be said, they make possible the existence of a self-governing community, and this is what ought to be defended. Let us look further at this idea.

The idea of sovereignty is essentially the idea of an ultimate authority. In the modern political world, nation-states are sovereign, that is, they are not bound by any higher authority. This may not last; the European Community already has certain powers over its member countries, and in due course all countries might become subject to the authority of, say, a strengthened United Nations, but this is only to say that nation-states may yield the sovereignty which has until now been theirs. Internally, the sovereignty of the nation-state means that all the other bodies within it are ultimately bound by its authority. There may be innumerable other sources of authority, in workplaces and in voluntary organisations and in local or regional governments, but all of these are in turn subject to the government of the sovereign nation-state.

One aspect of political sovereignty is that the sovereign authority has a monopoly on the use of force. This suggests one possible way of appealing to the idea of political sovereignty within 'just war' theory. It is not Walzer's argument, which I will turn to shortly, but it is an argument worth considering. Its starting-point is the recognition that if everyone had the right to use force and to injure or kill in pursuit of their own interests, there would be chaos.
Therefore, it is argued, the right has to be confined to those entrusted with the job of using the threat of force to keep the peace within their societies and, as far as possible, between societies. This is why the ruling authorities of nation-states have a monopoly on the use of force, and why it is therefore permissible to fight and kill on behalf of the nation-state, but not as an individual or on behalf of any other social group.

Note that this argument does not have to provide any special reason why it has to be the nation-state, rather than any other body, that exercises a monopoly on the use of force. The argument is only that, to make social life tolerable, that monopoly has to be located somewhere, and for historical reasons the sovereign authority which exercises that monopoly in the modern world happens to be the nation-state.

The important feature of the argument is the linking of internal force and external force. The idea is that if the sovereign authority legitimately exercises force within the society to maintain order, then it is also legitimate for it to exercise force externally, against other States, in order to maintain the international order. It is, however, this merging of internal and external force that needs to be questioned. The legitimacy of the second does not follow from the legitimacy of the first. On the contrary, I could as well draw the opposite conclusion. If the monopolisation of internal force is needed to prevent anarchy, should there not likewise be an international authority, with a monopoly of force at the global level, to prevent the anarchy of individual States using force against one another. The most that the argument from internal force to external force can amount to is a negative argument. There is, it could be claimed, a special reason why individuals and groups within the nation-state should not use force in their dealings with one another, namely that this is incompatible with the monopolisation of force by the nation-state to keep the peace (assuming that it does so). The negative argument would then be that there is no corresponding special objection to the external use of force by the State. Nation-states exercising sovereignty are not beholden to any higher authority, and therefore their use of force externally is not a flouting of any such authority. From this, however, it does not follow that it is right for nation-states to use force in their dealings with one another; it is merely that one special objection to the use of force does not apply to them. Sovereignty justifies the internal use of force insofar as this preserves a civil order, the rule of law, incorporating impartial judicial processes and institutions of political representation, and
these institutions themselves set strict limits on the use of force even by the sovereign authority. It may be expedient for nation-states to threaten military resistance against one another in order to preserve whatever international peace they enjoy, but that is not the argument we are considering. Their possession of sovereignty gives them no right to do this. The right to use force at the international level could be exercised only by an international authority possessing a sovereignty over individual nations which was genuinely parallel to the sovereignty exercised by the nation-state internally.

*Sovereignty and Communal Self-Determination*

I have said that the way in which Walzer’s argument appeals to the idea of political sovereignty is different, and I want now to look at his position. For Walzer, the important feature of political sovereignty is not the formal entitlement of the sovereign authority to use force, but the right of the political community to work out its own destiny without outside interference. What needs to be protected is the authenticity of the political process. Its outcome should reflect the configuration of forces within the community, and outsiders should not tip the scales. That is why wars of intervention cannot normally be justified, and it is the justification for wars of self-defence to protect the community against invasion and uphold its right of self-determination.

Walzer is attempting to tread a fine line here. On the one hand, he says that the community to be defended must be a genuine community. This is why he uses the language of ‘contract’. To say that a community rests on a genuine contract is to say that there is a genuine common life, a ‘process of association and mutuality’ (*JUW*, p. 54). On the other hand, Walzer does not want to specify particular kinds of political institutions as the only ones worth defending. It is up to each community to shape its own institutions in the light of its accumulated historical experience and its inherited culture and traditions. That, I take it, is what political sovereignty amounts to for Walzer. In particular, he wants to resist the idea that the only communities possessing the rights of self-determination and self-defence are those with liberal-democratic institutions, or those which guarantee the rights of individuals. To say this would be to invite the response that, if communities lack such institutions or violate individual rights, outside
military intervention should be permissible to create the institutions and protect the rights. Walzer argues against this. He maintains that, with certain very limited and extreme exceptions, wars of intervention are not permissible.\textsuperscript{72} The only normal justification for war is to defend borders against aggression, so that within those borders communities can carry on their own political life, whatever form it may take, and thereby exercise their right to political sovereignty.\textsuperscript{73}

I am not convinced that Walzer can establish an identifiable position in this middle ground, maintaining both that there has to be a real common life and that it does not have to take any particular institutional form in order to create the right of self-defence. The difficulty is apparent in two examples which he discusses, one real and one imaginary, in an article written as a reply to critics.\textsuperscript{74} The first example, put to him by David Luban, is that of the Sandinista revolution against the Somoza regime in Nicaragua. In August-September 1978 the Sandinistas led an insurrection, which received widespread popular support, especially in the form of strikes, but was brutally put down by the National Guard. The Sandinistas regrouped, negotiated an alliance with other anti-Somoza forces, and successfully over-threw the Somoza regime in July 1979. Luban argues that the 1978 insurrection demonstrated that the Government enjoyed 'neither consent nor legitimacy'. An illegitimate State, he says, cannot

\textsuperscript{72}The exceptions are: (i) cases of secession, where intervention across borders is to help what is really a separate political community struggling for independence; (ii) counter-intervention in a civil war, to redress the balance if a foreign power has already intervened on one side; (iii) humanitarian intervention, 'when the violation of human rights within a set of boundaries is so terrible that it makes talk of community or self-determination ... seem cynical and irrelevant, that is, in cases of enslavement or massacre' (p. 90). See JUW, ch. 6.

\textsuperscript{73}Walzer does not, as far as I am aware, ever clearly define the term by saying what the difference is between territorial integrity and political sovereignty. They tend to be merged into a hybrid 'right to territorial-integrity- and-political-sovereignty', cf. JUW, p. 89: 'the legal doctrine of sovereignty ... defines the liberty of States as their independence from foreign control and coercion ... The recognition of sovereignty is the only way we have of establishing an arena within which freedom can be fought for and (sometimes) won. It is this arena and the activities that go on within it that we want to protect, and we protect them, much as we protect individual integrity, by marking out boundaries that cannot be crossed, and rights that cannot be violated'. Sometimes the hybrid right receives the label 'communal integrity'.


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possess sovereign rights, and this, he thinks, undermines the moral position of those other States which ‘continued to recognise the sovereignty of the Somoza regime and thus committed themselves to a policy of non-intervention in the State’s war against its nation’ (p.206). Walzer replies:

....had there been a foreign intervention at the time of the first campaign, aimed at rescuing the rebels from defeat, as Luban believes there should have been, this internal process of bargaining and commitment [with other opposition forces] would have been cut short. And then the character of the new regime would have been determined by the intervening State together with whatever faction of rebels it chose to support. It is my claim that such an intervention would have violated the right of Nicaraguans as a group to shape their own political institutions and the right of individual Nicaraguans to live under institutions so shaped (MSS, pp. 227-8).

That right, he says, is not, as his critics would have it, a worthless right to live in ‘a civil society of almost any sort’; it is ‘the right to live in a civil society of a Nicaraguan sort’.

A similar phrase recurs in Walzer’s imaginary example. He asks us to imagine ‘a country called Algeria’ in which a revolutionary movement comes to power. Though initially committed to the establishment of democracy and social justice, it creates:

....a military dictatorship and a religious ‘republic’, without civil and political liberties, and brutally repressive, not only because a new political elite has established itself and resists all challenges but also because women have been returned to their traditional religious subordination to patriarchal authority. It is clear, however, that this regime (in contrast to the one the revolutionaries originally had in mind) has deep roots in Algerian history and draws importantly upon Algerian political and religious culture. It is not a democratic regime; its popularity has never been tested in a democratic way; but there can be no doubt that it is an Algerian regime (MSS, p.233).

Walzer again claims that it would be wrong for another country to intervene in ‘Algerian’ politics in support of democratic institutions and civil liberties.

It can hardly be the case that the relevant consideration in these two examples is simply that the society or the regime has a distinctively national character, that it is ‘Nicaraguan’ or ‘Algerian’.
The conclusion which I want to draw from all this is that, in deciding whether a community ought to be defended, we cannot escape the need to make qualitative judgements about its cultural and political life. We cannot short-cut the argument by appealing to the concept of political sovereignty.

Nations do not have an automatic right to be defended. I agreed, earlier, that membership of certain kinds of community may be of very great importance to people. We may identify with a community through sharing its language, through inheriting its culture, and in virtue of our attachment to a place. A threat to this communal life may be experienced as a threat to our very identity, a threat to something which is as precious to us as life itself. Nevertheless it is not necessarily threatened or destroyed by an invasion of a nation’s territory, and it is not necessarily protected by the defence of the nation’s borders. Likewise, underlying the talk of ‘political sovereignty’ is the truth that authentic political processes, whereby people actively shape their lives and institutions, may be of very great value; but they too are not necessarily protected by keeping a nation immune from outside intervention. The possible justification for war has to be a matter of judgements about how important these things are, how they are threatened and how they can be secured or defended in a particular case, and whether they are of sufficiently great value to override the very strong moral presumption against the destruction of human lives. The judgement is in principle of the same kind, whether the possible military struggle that is being contemplated is against an external or an internal enemy. Which way the decision should go is of course the great moral dilemma, but it cannot be resolved by invoking rights to territorial integrity and political sovereignty.

Walzer’s critics have tended to claim that his conception of ‘just war’ is too restrictive: it does not make sufficient allowance for other kinds of war, in addition to wars of defence against aggression, which might be justified. My own criticism is that it is too permissive: he has not successfully shown even that wars of defence against aggression will be justified, either in particular cases or in general. I agree with him, against some of his critics, that it would be extremely difficult to justify wars of intervention. However, because he wants to tie this to a general right of political sovereignty, he is led to overstate the case against intervention with some dubious empirical claims, as though to suggest that the political life of a national
community ought to be a self-contained and insulated process on which outsiders can never intrude. To counter the view that Governments may lack legitimacy, and hence have no standing in international society, no right of self-defence or immunity to intervention, Walzer makes the following assertions given his experience in America:

The State is constituted by the union of people and government, and it is the State that claims against all other States the twin rights of territorial integrity and political sovereignty. Foreigners are in no position to deny the reality of that union, or rather, they are in no position to attempt anything more than speculative denials. They don’t know enough about its history, and they have no direct experience, and can form no concrete judgements, of the conflicts and harmonies, the historical choices and cultural affinities, the loyalties and resentments, that underlie it. 75

This is sometimes true, but it depends very much on the particular case. 76 I do not see why, in at least some cases, outsiders should not be able to build up a reasonably accurate and objective picture of the condition of a society and the relation between its Government and its people. They may draw on the accounts of eye-witnesses, of reporters, perhaps, and of exiles, and the various political movements in the country, and though all these accounts may be slanted one learns how to assess evidence and whom to trust, as one has to even in one’s knowledge of one’s own country. Sometimes, indeed, outsiders may have a more balanced overall picture than insiders, if the latter are confined to a limited perspective, or their knowledge is affected by censorship or by wishful thinking. (One sometimes had the impression, for instance, that some white South Africans, who had never moved outside their own area, who had never seen the townships, who read a censored press and believed that ‘our blacks are perfectly happy’, were the people least well-informed about the condition of their own country under apartheid). On the basis of such knowledge, outsiders will regularly and rightly engage in various kinds of intervention, organising economic boycotts or pressing for economic sanctions, mounting campaigns of protest or solidarity. All this is, of course, intended to influence the outcome of the political process within the country, that is to say, the

75MSS, p. 220. Cf. p. 229: ‘In most civil wars, it just isn’t possible to determine whether the Government or the rebels (or which faction among the rebels) has majority support’.
76One case in which it was true was that of the American involvement in Vietnam from 1954 to 1973. This may well be a case which Walzer has in mind; his Just and Unjust Wars was in large part prompted by debates about the legitimacy of the United States’ involvement in the Vietnam War.
interveners are not content for the process to be entirely shaped by internal forces. I can see no objection to such intervention; I do not think that Walzer has provided any convincing objection to it, and I am not sure whether he has intended to. What is not justifiable is military intervention, and it is objectionable not because it is intervention, but because it is military intervention. The case against it is that it is bound to be coercive, that one cannot create a free society by means of coercion, and that the likely product of military interference is internal oppression. A free society can be created only as people acquire, over time, habits of self-organisation and build up the institutions with which they take control over their own lives. As Walzer himself says, agreeing with Mill and with Marx, 'the (internal) freedom of a political community can be won only by the members of that community' (JUW, p. 88). Outsiders, I would add, can help them, and that is why some kinds of intervention are acceptable, but military intervention is not.

It may now seem that the practical implications of my position are not so very different from Walzer's. I have agreed with his rejection of wars of intervention. I have said that military interventions, even if well intentioned, are likely to turn into internal oppression. It seems to follow that if armed resistance to internal oppression is ever justified, then armed resistance to invasion is equally justifiable, for why not resist invasion immediately, before it ever becomes internal oppression? Why not stop it at the borders? Without invoking rights to territorial integrity and political sovereignty, it would seem that we still have a good case for resisting invasion and defending borders.

The important word in that paragraph remains the 'if'. If armed resistance to internal oppression is justified, armed resistance to invasion is also likely to be justifiable. It remains an open question whether armed resistance is ever justified at all, in either case. Given the very strong moral presumption against it, we still have to consider how, if at all, that presumption could be overridden, and that means also looking at the possibility of other kinds of resistance. But even if my practical conclusions were in the end to be not all that different from Walzer's, they are importantly different from a great deal of contemporary received wisdom, especially the received wisdom of those in power. Not surprisingly, Governments tend to be very keen on the idea of political sovereignty. They tend to assume that they have an automatic right of military resistance to any violation of national sovereignty, and, again
not surprisingly, they tend to regard armed resistance to internal oppression as much less justifiable. I want to conclude this chapter by using a pair of examples to show how my argument runs directly counter to that received wisdom.

**Two Examples: The Falklands and South Africa**

On 2 April 1982 Argentine forces invaded the Falkland Islands, a British territory in the South Atlantic which the Argentinians claimed had been wrongly taken from them in 1833. The invasion was denounced by the British Government as an act of aggression and a violation of sovereignty. Invoking rights of self-determination and self-defence, the Government dispatched a naval task force to recover the Islands. The ensuing war re-established British sovereignty in the Islands, at the cost of the lives of 255 Britons and 652 Argentinians.

It has been claimed that it would have been possible to safeguard the way of life of the Falkland Islanders without a war. They could have retained their cultural and linguistic affinities with Britain, and political arrangements enabling them to continue running their own affairs. Not only could this have been compatible with the Argentinian Government’s intentions, it could also have been guaranteed by the Peruvian peace plan, which was close to being accepted until it was aborted (deliberately) by the British sinking of the Argentinian cruiser *General Belgrano*. Whether or not this was possible, however, was not the central question for the British government. Its principal reason for fighting was not for the sake of preserving a way of life, but the sake of formal sovereignty. It was also influenced by domestic contexts, including Prime Minister Thatcher’s and the Government’s perceived need to appear ‘strong’ to the voting British public. Although it has been alleged since the war that the British government deliberately aborted the Peruvian peace plan by the sinking of the Argentinian cruiser *General Belgrano*, this was not the case. The British government could not have foreseen that the action of sinking the *General Belgrano* would have such political consequences and it is clear from published evidence that the sinking of the Argentinian cruiser clearly was not initiated by such a political motive to reject the Peruvian peace plan (Freedman & Gamba-Stonehouse, 1990). What took place appeared to be a “consequence of many of the standard features of crisis decision-making” (Dillon, 1989, p. 149).
I want to compare the British decision to go to war to recapture the Falkland Islands with the decision of the African National Congress in South Africa to resort to armed struggle. The latter was not a decision to employ military resistance against an occupying regime. Although there would have been a case for presenting it as such, the aim of the ANC was not the expulsion of the white population, but a democratic non-racial South Africa in which full citizenship would be enjoyed by all, black and white. The achievement of that goal meant the destruction of the system of apartheid, which exploited and degraded the black majority in every area of life, economic, cultural, social, legal and political. Apartheid had been maintained by banning anti-apartheid organisations and imprisoning their leaders, and by extending police powers, censorship and all the other paraphernalia of a police state. For many years the ANC followed a policy of non-violent struggle, until the shooting of peaceful protesters at Sharpeville in 1960 dramatised the fact that so long as they confined themselves to non-violent actions their protests and campaigns would be simply disregarded and repeatedly crushed. They turned to armed struggle because, they said, they had no alternative. I do not know whether that was the right decision (and I will return later to the idea that there was ‘no alternative’), but if military resistance can ever be justified, I think it could be justified in this case.

Many people who instigated or supported the war to recapture the Falkland Islands, including the British Prime Minister, also criticised the ANC for the campaign of armed struggle and called on its leaders to ‘renounce violence’. That combination of judgements seems to me to depend on a moral distinction which cannot be sustained. Agreed, by the standards of the ‘just war’ theory, the British government was in the right in recapturing the Falklands. The Argentinian invasion was an act of aggression against British territory. Whatever the strength of the Argentinian claim that the territory was wrongly taken from them in the past, British sovereignty in the islands was desired by the majority of the Islanders and was internationally recognised, and the invasion was a violation of that sovereignty. I have argued, however, that the appeal to the rights of territorial integrity and political sovereignty cannot by itself justify a resort to war. The Falklands War was a classic example of a situation where a formal concern with sovereignty had little to do with any substantial threat to a way of life worth defending. Given the possibility which existed of reaching an acceptable settlement by diplomatic means
(and the invaluable precedent which this would have set), the attempt to justify the resort to war had to rest heavily on the appeal to 'sovereignty'. I do not see that this was in itself a sufficient justification. By the same token, of course, the Argentinian invasion was not justified by its own appeal to rights of sovereignty.

**Conclusion**

I have argued that the question of whether military resistance can be justified is in principle the same, whether what is being contemplated is resistance to internal or external oppression. In either case the question is whether the substantive evils that would otherwise have to be suffered by the community are so great as to override the moral presumption against the taking of human lives. Judged from that point of view, the case for resorting to armed conflict against apartheid was at least as well founded as the case for resorting to armed conflict to recapture the Falkland Islands, and an appeal to rights of territorial integrity and political sovereignty cannot by itself make a decisive difference between the two cases.
Chapter 5 – The Immorality and Inappropriateness of Involving the Non-Military

Non-Combatant Immunity

We saw that the ‘just war’ tradition distinguishes between the questions of *jus ad bellum* and *jus in bello*. The latter is concerned with identifying the morally acceptable modes of conduct in war, and the moral restrictions on how wars should be fought. Even if one is justified in resorting to war, there are, according to the theory, limits on what it is morally acceptable to do in order to achieve victory. Traditionally, the most important of these limits has been set by the principle of non-military (or non-combatant) immunity - the principle that it is wrong to attack or kill non-combatants. The distinction between combatants and non-combatants is the distinction between members of the armed forces and the civilian population. What has standardly been said within the tradition is that the killing of non-combatants is wrong because, unlike combatants, they are innocent.

Whether a clear and morally relevant division can be made between the two categories of people is, as we shall see, a matter for debate. Undoubtedly there will be grey areas. Some members of the armed forces, such as cooks and drivers and musicians, perform tasks which do not have a specifically military character. Some members of the civilian population, such as those who work in munitions factories, contribute much more directly to the prosecution of the war, and it has been argued that, within the terms of the non-combatant immunity principle, they should be regarded as permissible targets. By the same token, the politicians and their government departments who direct the war, though they are not strictly military personnel, would have to be regarded as coming on the combatant side of the line if the division is to be at all plausible. But the assumption behind the principle is that, whatever the grey areas, some such broad division can be made, and can be regarded as a morally significant distinction between two classes of people.

The principle of non-combatant immunity is not just a component of a moral tradition, but is also embodied in modern international law. It is reflected in the Hague Conventions of 1907.
and the Geneva Conventions of 1949, and most explicitly in the 1977 Protocols amplifying the Geneva Conventions. Articles 48 and 51 of Protocol I state:

In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives... The civilian population as such, as well as individual citizens, shall not be the object of attack...

The form of warfare most obviously excluded by such rules is the bombing of cities, towns and villages. The German, British and American bombing of cities in the Second World War, the dropping of atomic bombs on Hiroshima and Nagasaki and American carpet bombing in Vietnam would all, for instance, have been contrary to the principle. As I noted in chapter 3, virtually all uses of nuclear weapons would violate it. Clearly, Governments which have accepted these international conventions have all too often failed to observe them in their military policies and practices, but the fact that they feel the need to make special excuses and exceptions to justify violations of the principle is itself testimony to its persuasiveness.

Though the question of *jus in bello* is distinguished from that of *jus ad bellum*, there are as noted in chapter 4 close connections between them. Some people have argued, for instance, that modern techniques and conditions of warfare make it almost inevitable that non-combatant immunity will be violated. And it is argued that since modern armed forces tend to consist largely of conscripts, since even professional soldiers are only doing a job, and since both classes of combatants are therefore, in the relevant sense, innocent, modern wars cannot be conducted without the wholesale killing of the innocent. Both arguments claim that since the requirement of *jus in bello* cannot be met, it cannot be right to go to war in the first place.\(^77\) *Jus ad bellum* and *jus in bello* are also connected at a deeper level. To assert that the

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\(^77\) Richard Wasserstrom, 'On the Morality of War: A Preliminary Inquiry', in Wasserstrom, ed., *War and Morality* (Belmont, CA: Wadsworth, 1969), p.101: 'in war, no less than elsewhere, the knowing killing of the innocent is an evil that throws up the heaviest of justificatory burdens. My own view is that in any major war that can or will be fought today, none of those considerations that can sometimes justify engaging in war will in fact come close to meeting this burden. But even if I am wrong, the argument from the death of the innocent does, I believe, make it clear both where the burden is and how unlikely it is today to suppose that it can be honestly discharged'.
killing of non-combatants is wrong, because they are innocent, is also to assert that the killing of combatants is permissible, because they are not innocent. The assertion thus purports to answer the pacifist who says that war cannot be justified because it involves the taking of human life. The reply of the ‘just war’ theorist would be that the taking of life in war can be justified, because those who are killed are combatants and therefore not innocent. The conflict between ‘just war’ theory and pacifism has been starkly asserted by Anscombe:

Now pacifism teaches people to make no distinction between the shedding of innocent blood and the shedding of any human blood. And in this way pacifism has corrupted enormous numbers of people who will not act according to its tenets.78

Turning this on its head, the pacifist might respond that ‘just war’ theory, by emphasising the distinction between killing combatants and killing the innocent, has blinded people to the fact that all war is killing and as such is wrong.

In this chapter, then, I want to examine the idea of non-combatant immunity from both points of view. Does it create a distinction between classes of acts which are permissible in war and those which are not? And does it point to a justification for some kinds of killing, and thus a justification for war itself?

It is doubtful whether we can get very far by appealing to people’s immediate intuitions to answer these questions, for those intuitions are likely to vary and to conflict. To some people the deliberate killing of civilians in war seems obviously barbaric and inhumane, to others it does not seem essentially different from other kinds of killing in war. A good example of these differing responses is provided by the controversy over the British and American bombing campaign against German cities in the Second World War. The British campaign began in the autumn of 1940. The first dropping of German bombs on London was followed immediately by a retaliatory attack on Berlin, and the campaign continued throughout the war, culminating in the fire-bombing of Dresden in February 1945. Although the bombing was initially intended for precise military and industrial targets, it soon became apparent that the

bombers lacked the technical means to achieve that degree of precision, and the strategy quickly developed into the carpet-bombing of German cities. In February 1941, Bomber Command received the following order: ‘The new aiming points are to be the built-up areas, not for instance the dockyards or aircraft factories.’ By 1943 the Allied strategy was for American day-time raids to dislocate economic and military activity, and for British night-time area-bombing to destroy civilian morale. There were those who criticised the strategy at the time, and one of them was Vera Brittain, a prominent pacifist who believed that if a pacifist has failed in the main purpose of preventing war, ‘that does not exonerate him from any attempt to mitigate war’s worst excesses’. In her pamphlet *Seed of Chaos* she claimed that ‘owing to the RAF raids, thousands of helpless and innocent people in German, Italian and German-occupied cities are being subjected to agonising forms of death and injury comparable to the worst tortures of the Middle Ages’. George Orwell, taking issue with her in his regular column in the *Tribune*, asked ‘Why is it worse to kill civilians than soldiers?’ He suggested that it made no sense to try to pick and choose between more and less ‘barbarous’ or ‘legitimate’ forms of warfare. So-called ‘legitimate’ warfare in fact ‘picks out and slaughters all the healthiest and bravest of the young male population’. Orwell was even inclined to welcome civilian bombing as something which brought home to everyone the full horror of war. ‘War is not avoidable at this stage of history, and since it has to happen it does not seem to me a bad thing that others should be killed besides young men’. Nevertheless we also find Orwell himself conceding in the same article that ‘obviously one must not kill children if it is in any way avoidable’. He thus appears to allow, after all, that even in war some deaths are worse than others. Is there any coherent way of making such distinctions? Many of us, I would suggest, can feel the intuitive force of both sides of this argument; we may at first agree with Vera Brittain that the deliberate killing of civilians is barbaric, but a moment’s reflection reminds us of the horror of all killing in war and the differences may then come to seem less significant. We therefore need to look for some deeper account of why the distinction between different kinds of killing in war may have a genuine moral importance.

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80 *Testament of a Generation: the Journalism of Vera Brittain and Winifred Holtby*, edited by Paul Berry and Alan Bishop (London: Virago, 1985), p. 244. The quotation is from a reply to the article by George Orwell cited in fn. 82 below, and was originally printed as a letter in the *Tribune* on 23 June 1944.
Conventions

The simplest, and least theoretically demanding, account of non-combatant immunity would be that it is a useful convention. Like other agreements to restrict the conduct of war, such as agreements not to use biological or other chemical weapons, it reduces the amount of suffering created by the fighting of wars. This account of non-combatant immunity is put forward by George Mavrodes in an article ‘Conventions and the Morality of War’. He emphasises that the point of such conventions depends on their being agreed to and observed by both sides in a war. One’s reasons for abiding by the convention will apply only if the other side also abides by it. Those reasons are themselves broadly utilitarian in nature. Mavrodes says of the non-combatant immunity convention that it will probably, if followed, ‘reduce the pain and death involved in combat - will reduce it, that is, compared to unlimited warfare’ (p. 85).

The question which I want to raise is: why pick on non-combatant immunity as a principle which should be adopted as a convention? If proposed conventions were to be judged by the utility of their being observed, one might suppose that an even more useful convention would be one which prohibited war altogether, and required all disputes to be settled by negotiation. Mavrodes plays with the idea of a convention that all disputes which are in danger of leading to war should be settled by single combat between the chosen champions of each side. As he says, the costs of war in terms of human death and suffering ‘would be reduced by several orders of magnitude’ (p. 83). He quickly adds, however, that the ‘single combat’ convention ‘cannot be made practical, and nations just will not consent in the end to abide by this convention’. No doubt he is right, but why? Why is it that some restrictions on warfare stand some chance of being accepted (as they have been in the Hague and Geneva conventions), whereas others such as the ‘single combat’ convention do not?

In the case of restrictions of a specific kind, for instance banning specific kinds of weapons, we can identify correspondingly specific and pragmatic reasons for their acceptance. For example, biological and chemical weapons are particularly horrific and if they are not yet a
standard feature of warfare there is some chance of reaching an agreement that may stick. Non-combatant immunity, by contrast, is not a specific prohibition, but a general principle. If, however, general principles are being offered for agreement on the grounds of their utility, the tendency will be for such principles to collapse into the utilitarian principle itself. This is well illustrated in a discussion by R. B. Brandt of ‘Utilitarianism and the Rules of War’. 84 He suggests that the following general rule for the conduct of war might be adopted on utilitarian grounds: ‘a military action...is permissible only if the utility...of victory to all concerned, multiplied by the increase in its probability if the action is executed, on the evidence...is greater than the possible disutility of the action to both sides multiplied by its probability’ (p. 157). This principle amounts to little more than saying that military actions should be judged by utilitarian standards. It is far removed from the principle of non-combatant immunity, as is evident from Brandt’s proposing the following more specific proposals for ‘serious wars’ (i.e., presumably, wars where victory would have great utility): ‘substantial destruction of lives and property of enemy civilians is permissible only when there is good evidence that it will significantly enhance the prospect of victory’ (p. 156). In other words, pointless and gratuitous destructiveness is ruled out. From a practical point of view this would be a not inconsiderable achievement, given the way that most wars in history have been fought. But if we are trying to be clear about the moral status of non-combatant immunity, Brandt rightly indicates that it cannot plausibly be seen as a convention which might be adopted simply on grounds of utility. If, as Mavrodes claims, the principle is one which people could agree on, this must be because it has some independent moral weight. In other words, there must be something independently wrong in killing non-combatants or, at any rate, it must be plausible to suppose that there is. I still have to consider, therefore, what gives the principle its moral plausibility.

Innocence

Let us look more closely at the idea of ‘innocence’. Does it offer any help here? Is there any appropriate sense in which the killing of non-combatants is ‘the killing of the innocent’, and as such is wrong?\textsuperscript{85} Clearly what is meant here cannot be moral innocence in any general sense. There is no reason to suppose that civilians are in general morally superior to members of the armed forces. The bombing of a town may kill all sorts of morally disreputable individuals. Babes-in-arms may perhaps be morally innocent (if we do not believe in original sin), and people do sometimes talk of attacks on civilians in war as being especially wrong because they involve killing ‘innocent children’. We know, however, that such innocence, if it exists, does not last long, and cannot be ascribed to the civilian population in general.

What must be meant is that non-combatants are in some sense innocent in respect of the war. This notion, however, is still not really clear. The following points, in particular, may bring out the difficulties.

(i) The ‘combatant’ / ‘non-combatant’ distinction is supposed to be a distinction between those who are and those who are not innocent, whichever side they are on and whatever the cause for which they are fighting. However, in any particular war, the armed forces of one side may be fighting for what is, in the terms of ‘just war’ theory, a just cause. It is difficult to see why, in virtue of their fighting for a just cause, they should be thought to have lost that ‘innocence’ which would make it wrong to kill them.\textsuperscript{86} In ordinary language ‘innocent’ is usually contrasted with ‘guilty’ but, if people are fighting in a just cause, what are they supposed to be guilty of? Let us suppose that, in the Second World War, the British were fighting in a just cause and the Germans were not. From the point of view

\textsuperscript{86} Jeff McMahen, in ‘Innocence, Self-Defence, and Killing in War’, Journal of Political Philosophy vol. 2, no. 3 (1994), pp. 193-221, regards this as a principal ground for criticism of what he calls ‘the Orthodox View’ of non-combatant immunity. Against it he defends ‘the Moral View’, one element of which is that ‘a combatant’s moral guilt or innocence is determined in part by whether or not he is fighting in a ‘just war’. 149
(ii) Of just ad bellum, then, the Germans were wrong to fight at all; but from the point of view of just in bello and of non-combatant immunity, it was wrong for German soldiers to attack British civilians, but morally acceptable for them to attack British soldiers. This distinction cannot be accounted for by saying that British civilians were ‘innocent’, but British soldiers were ‘guilty’.

(iii) If ‘innocent’ were to be contrasted with ‘guilty’, it is not even clear that soldiers fighting for an unjust cause could properly be described as ‘guilty’ rather than innocent. To talk of ‘innocence’ and its absence in this way would seem to invoke a ‘punishment’ model of killing in war, but if we were to take that model seriously it is doubtful whether it would lead to the conclusion of non-combatant immunity. Combatants, whether they are conscripts or professional soldiers, are acting under orders. They did not decide that the war should be fought, or how it should be fought. This does not necessarily exonerate them from guilt if they are fighting for an unjust cause, but it does at any rate raise questions about whether they are the most appropriate targets of punitive action. Many people in the civilian population are likely to carry a much greater burden of guilt for an unjust war. Take again the case of the Second World War, and the Allied bombing of German cities. Many of the German civilians who were killed could more appropriately have been regarded as ‘guilty’ than many members of the German armed forces. The civilians would have included many people who had helped to bring the Nazi party to power, had fostered German belligerence and had enthusiastically supported the war effort. Many German combatants, especially towards the end of the war, would have been young conscripts who had grown up when the war was already in progress, who perhaps had little idea what it was about or why it had started and who could not convincingly be regarded as morally responsible for it. Above all, of course, the burden of guilt must lie with the politicians. They are the people who must be held primarily responsible for the decision to go to war in an unjust cause. If, therefore, we were to take seriously the ‘punishment’ model for understanding ‘innocence’ in war, it would lead to practical conclusions very different from the standard interpretation of non-combatant immunity. It would imply that the most clearly legitimate targets in war would be not the combatants, but the politicians.
Defenders of the traditional principle of non-combatant immunity would at this point suggest that ‘innocence’ in this context does not carry the usual connotation of a contrast with ‘guilt’. The term ‘innocent’, they would say, is being used in a technical sense. According to Walzer, when we account for the immunity of civilians by calling them ‘innocent’ this is ‘a term of art which means that they have done nothing, and are doing nothing, that entails the loss of their rights’. However, if ‘innocent’ is simply a term of art, its use here becomes question-begging. We want to know why it should be thought that combatants have lost their right not to be killed whereas civilians retain that right. It is not explained by describing civilians as ‘innocent’ if this simply means that civilians have not lost their rights.

An explanation has sometimes been offered by referring to the etymology of the term ‘innocent’, as the negative of the Latin word nocentēs, which means ‘harming’. Kenny, for instance, says:

The most important of the traditional conditions for a ‘just war’ was that it should not involve the deliberate killing of non-combatants. This was sometimes called the prohibition on ‘killing the innocent’, but the innocence in question had nothing to do with moral guiltlessness or lack of responsibility: the ‘innocent’ were those who were not nocentēs in the sense of engaged in harming one’s own forces.

The distinction is, then, between civilians who are ‘harmless’ and combatants who are engaged in an activity of ‘harming’ others. We still need some further explanation, however, of why their engaging in that activity should render them liable to be killed. The distinction which is made between combatants and non-combatants has to be not just any distinction, nor even just one which seems to have some moral relevance; it has to be one which will carry sufficient moral weight. It has to be capable of explaining how the fact of someone’s being a combatant, even in a just cause, can overcome the strong moral presumption against killing. Can the fact that someone is engaged in ‘harming’ provide such an explanation?

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The question could usefully refer us back to my discussion of ‘killing in self-defence’ in the previous chapter. In the context of individual self-defence it may sometimes be morally permissible to kill in order to prevent harm to oneself, but we also saw that not just any threat of harm can justify killing. The analogy with self-defence has sometimes been invoked by the advocates of the principle of non-combatant immunity. Let us see whether it can help.

**Self-Defence**

Robert Fullinwider argues for the idea of non-combatant immunity by appealing to the analogy with self-defence in the following terms:

...a nation may justifiably kill in self-defence. From the point of view of self-defence, only those are justifiably liable to be killed who pose the immediate and direct jeopardy. In the case of war, it is nations' armed forces which are the agents of the jeopardy...To intentionally kill non-combatants is to kill beyond the scope of self-defence.\(^{89}\)

I have argued in the previous chapter that the comparison between war and self-defence is a great deal more problematic than is often supposed. ‘Nations’ do not, as Fullinwider has it, only ‘kill in self-defence’. In war, people kill people. They may do so in individual self-defence, to save their own lives. They may also do so because they see themselves as defending their nation. Which of the two do we mean here? If Fullinwider’s suggestion were that killing in war is morally permitted only in individual self-defence, in the literal sense, then the implications of this suggestion would be a great deal more restrictive than the principle of non-combatant immunity. It would imply that combatants could kill enemy combatants only when it was necessary to save their own lives (or perhaps the lives of others). If this principle were followed (even only by the defending side), then wars would never begin. The attackers need never fire a shot, and the defenders would themselves then have no justification for opening fire. Even when a war had already started, the practical implications of such a

principle would be extremely restrictive. It could perhaps be stretched to allow not just immediate defence against direct attack, but also pre-emptive strikes against the enemy to prevent further attacks, however all such actions would have to be limited to what was necessary for protecting the lives of one's own people, and that would probably amount to something very different from what would be necessary to win a war.

Presumably what Fullinwider and others have in mind is not literal self-defence, but an analogy between this and the defence of the nation. The problem is then, as we have seen above, that there is no clear way of deciding how far to take the analogy. The most permissive version would be that if nation A attacks nation B, nation B may engage in activities analogous to self-defence against nation A, but this does not imply any restrictions on which individuals within nation A may be killed; it implies only that the activities of self-defence must be directed against nation A. The most restrictive version would be that nation B may do something against nation A analogous to killing in self-defence, but this does not yet provide any justification for the literal killing of anyone in nation A. It might, for instance, be held to justify non-violent resistance but no more, or violent resistance which stops short of the taking of life.

Fullinwider of course wants something between these two extremes. He wants to say that it is the armed forces of nation A who are doing the attacking and may therefore be killed. Some further argument is needed, however, for that conclusion. This is where we need to refer back to my earlier discussion of self-defence. Although it was difficult to specify clear-cut criteria determining who may legitimately be killed in self-defence, an essential consideration seemed to be that of responsibility. If, in the extreme case, someone is faced with an immediate threat which forces her to choose between her life and that of her attacker, then the fact that the attacker is responsible for the situation is what justifies her in taking his life in order to save her own.

The relevance of responsibility can be brought out by looking at the examples with which Fullinwider elaborates the analogy between killing in war and in individual self-defence. He first imagines Jones walking down a street, being fired on by Smith, and killing Smith in self-defence. He then adds other possibilities. Suppose that Smith's wife has a grudge against
Jones and has falsely told him that she has been raped by Jones; she instigates his attack and is egging him on. Or suppose that Smith is being blackmailed by gangsters, who will financially ruin him or kill his children unless he kills Jones. In Fullinwider’s example, the wife and the gangsters are presumably analogous to sections of the civilian population in an aggressor nation. Still, says Fullinwider, Jones’ self-defence must be directed only at Smith, who is the direct and immediate threat.

Suppose that Smith’s wife was standing across the street egging Smith on as he fired at Jones. Jones, though he justifiably shot Smith in self-defence, could not justifiably turn his gun on the wife in self-defence. Or suppose the mobsters were parked across the street to observe Smith. After killing Smith, Jones could not turn his gun on them, assuming they were unarmed.

These, I suggest, are loaded examples. If the only way Jones can save his own life is by killing his immediate attacker Smith, then perhaps he is justified in killing Smith. I am not certain that this follows - the situation is comparable to my case 3 in the previous chapter- much will depend on the precise detail of the case and even then people’s moral responses to the example are likely to vary. Certainly, if Jones does kill Smith, he is not then justified in killing the wife or the gangsters as well, if this is not necessary to save his life. Suppose, however, that he has a choice, and that he can equally effectively defend himself by killing Smith or by killing the wife / the gangsters: then surely he should kill the wife or the gangsters rather than Smith himself, since they are the ones who are primarily responsible for the attack. Analogously, in war, if a nation can defend itself by killing enemy combatants and can do so by killing enemy non-combatants, it is as yet an open question which should be killed. We have to raise the question of moral responsibility, and ask whether it is the combatants or the non-combatants of the aggressor nation who bear the greater moral responsibility.

There is unlikely to be any easy answer to that question. Combatants must presumably always bear some responsibility for the prosecution of the war, but the extent of their responsibility can vary considerably. They may well be unwilling conscripts. If their country allows them no
right of conscientious objection, and if the only alternative to serving in the armed forces is punishment by imprisonment or death, then their responsibility for carrying on the war may be minimal. Alternatively, they may be willing conscripts, or they may be volunteers. If they are volunteers, they may have joined the armed forces simply in order to get a job (perhaps with few other options), or they may have joined up enthusiastically, as eager supporters of the war. A further question would then be how far they know what they are doing, and how far they have been duped by their government. To the extent that the latter is the case, their responsibility will be less. It is therefore debatable whether the responsibility even of volunteer combatants is ever comparable to that of the individual attacker who can permissibly be killed in self-defence. Almost certainly, in any actual war, the combatants who will be killed fighting for an aggressor nation will include many who cannot be held sufficiently responsible for the prosecution of the war.  

Even more certainly, there will be many non-combatants who bear a greater responsibility for the war than many combatants. Recall my earlier discussion of the Second World War. What was said there about ‘guilt’ and ‘innocence’ is equally applicable to the present discussion of ‘responsibility’. Civilians who had enthusiastically and actively supported the Nazi regime and its expansionist policies must surely be regarded as having carried a greater responsibility than many German combatants. Their position, and that of innumerable non-combatants in other wars, is like that of the gangsters in Fullinwider’s Smith-and-Jones example. I said that if Jones can choose between killing Smith and killing the gangsters to save his own life, he ought surely to kill the gangsters. Analogously, then, considerations of responsibility cannot support any clear principle of killing combatants rather than killing non-combatants in wars of defence.

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90 Cf. the criticism of Fullinwider in Lawrence A. Alexander, ‘Self-Defence and the Killing of Noncombatants: A Reply to Fullinwider’, in Beitz et al., International Ethics.  
91 Cf. McMahan, ‘Innocence, Self-Defence, and Killing in War’: ‘conculpable ignorance may be a powerful excuse available to Unjust Combatants. And there is...the additional excuse of duress. Either singly or in combination, these considerations may be sufficient to excuse an Unjust Combatant’s participation in an unjust war, thereby giving him the status of an Innocent Attacker’. McMahan suggests that a possible response is to maintain that in any particular case there is a strong presumption that an Unjust Combatant will be a Culpable Attacker and may therefore permissibly be killed; he notes however that this still leaves the problem of how it can ever be permissible for a Unjust Combatant to kill a group of Unjust Combatants knowing that it is statistically certain that the group contains both guilty and innocent attackers.
Finally we must remember two other points which further undermine the 'self-defence' account of non-combatant immunity. One is that, as I have previously argued, the whole analogy between individual and collective self-defence is, in any case, highly suspect. The other point is that, as with our earlier discussion of 'innocence', the 'self-defence' account cannot justify the traditional principle of non-combatant immunity, one which is supposed to apply equally to both sides in any war. Even if killing the combatants of an aggressor nation could be justified on the grounds that they are the people responsible for doing the aggressing, the same distinction cannot be made between the combatants and the non-combatants of a nation which is fighting a defensive war. The most that could possibly be said is that the combatants of the aggressor nation might be justified in killing enemy combatants in individual self-defence.⁹²

**Persons and Things**

I want to look at one other way of trying to make sense on non-combatant immunity - the one which seems to me to be the most promising. This is the account put forward by Thomas Nagel in his article 'War and Massacre'.⁹³ Nagel's starting-point is one with which I have agreed in previous chapters: that the rightness or wrongness of actions is not just a matter of their effects, but also a matter of the kinds of relations with others which they involve (p. 63). In warfare we are concerned especially with relations of hostility between people, and this leads Nagel to formulate:

...the principle that hostile treatment of any person must be justified in terms of something about that person which makes the treatment appropriate. Hostility is a personal relation, and it must be suited to its target. One consequence of this condition will be that certain persons may not be subjected to hostile treatment in war at all, since nothing about them justifies such treatment. (p. 63)

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⁹² And, as McMahan notes in ibid, even this justification would be available only to those combatants of the aggressor nation who are themselves innocent attackers, e.g., unwilling conscripts. Those who are culpable attackers do not even have a right to kill in individual self-defence.

What is wrong with attacking civilians in war, then, is that the attack on them cannot be justified in terms of *what they are doing*. An attack on a civilian, says Nagel, is not ‘aimed at him as a subject’ (p. 66). It manifests not an attitude to *him / her*, but simply an attitude to his or her *situation*, a response to his or her vulnerability and the use which can be made of it. Nagel illustrates this with a pair of examples. ‘To fire a machine gun at someone who is throwing hand grenades at your emplacement is to treat him as a human being’, it is to respond to him as a dangerous adversary (p. 68). In contrast, to ‘stop him by machine-gunning his wife and children, who are standing nearby, thus distracting him from his aim of blowing you up and enabling you to capture him’ would be to treat the wife and children simply as means. Such treatment of them, Nagel adds, ‘is just Hiroshima on a smaller scale’, and all attacks on civilian populations are morally objectionable in a similar way (p. 69).

Nagel attempts to accommodate these ideas to the traditional language of ‘innocence’, in ways which I have just been considering. In this context, he says ‘innocent’ does not mean ‘morally innocent’, but ‘currently harmless’ (p. 69), and ‘we must distinguish combatants from noncombatants on the basis of their immediate threat or harmfulness’ (p. 70). Accordingly he says, of the machine-gunning of the soldier about to throw a hand grenade, that ‘the attack is aimed specifically against the threat presented by a dangerous adversary’, and is a response to the ‘directness’ of the threat (p. 68). This looks like an appeal to the idea of killing in self-defence, and would raise the difficulties which I have already discussed. If the idea is that the machine-gunner is justified in killing the hand-grenade thrower in order to counter the direct and immediate threat to his own life, this will apply to only a very limited range of cases. If we were to try to extend it more widely, we should have to raise the wider questions of responsibility for the prosecution of war, and this is unlikely to lead to the conclusions which Nagel wants, given that many civilians are morally more responsible for the waging of war than many combatants.

Nagel’s use of the language of ‘innocence’, then, is no more successful than other such attempts, and I suggest that we should abandon it. What is more appropriate, I believe, is Nagel’s use of Kantian moral concepts. He speaks, as we have seen, of one’s attitude to

(Cambridge: Cambridge University Press, 1979) and in *Consequentialism and its Critics*, ed. S. Scheffler
someone 'as a subject', of treating someone 'as a person'. He says that 'in attacking the
civilian population, one treats neither the military enemy nor the civilians with that minimal
respect which is owed to them as human beings' (p. 69). Such language clearly invokes Kant’s
concept of 'respect for persons', and his distinction between treating human beings as persons
and treating them as mere objects, mere means to an end. The essential characteristic of
treating someone as a person is that one is responding to him or her as an agent. The objection
to attacking civilians is not so much that what they are doing poses no threat, but that attacking
them is not really a response to what they are doing at all. It is also in this sense that we can
relevantly describe attacks on civilians as 'indiscriminate'. The point is not that such attacks
fail to discriminate between the innocent and the non-innocent, it is that they fail to
discriminate between human beings as persons, and as agents engaged in various kinds of
activities.

The point is connected with one which has been made by Barrie Paskins and Michael Dockrill,
using a similarly Kantian perspective. The moral standpoint of treating people as ends, they
say, leads to 'a very important distinction between two kinds of death in war': Some people,
by virtue of what they are doing, can regard death in battle as, however terrible, neither more
nor less than suffering the consequences of their own actions. Some other people who might
be killed in war do not have this thought open to them. The distinction coincides closely with
that between combatant and non-combatant. For the combatant must recognise that death in
war would be a fate internally connected with the activity by virtue of being a combatant. But,
except in very special circumstances, this does not apply to the combatant (p. 224).

And again:

> Because of the internal connection between combatancy and being killed, a combatant has the option
> and opportunity to regard the prospect of death in war as meaningful: written into what he is doing is a
> connection with being killed that gives his own death a meaning...But the death in war of a
> noncombatant does not have any such guaranteed meaning... (p. 225).

The phrase ‘guaranteed meaning’ overstates the case. There is no such guarantee. If combatants are simply ‘cannon-fodder’, treated as expendable by their own leaders, thrown into a futile and pointless attack and simply mown down by the enemy, it may be difficult to regard their deaths as anything other than meaningless slaughter (and I shall say more about this in a moment). But the more cautious wording employed by Paskins and Dockrill seems to me to make the right point: combatants have at least the possibility of a meaningful death, because the prospect of being killed is internally connected with the activity of soldiering in which they are engaged. For non-combatants who are killed in war, there is normally no such possibility; their deaths have no meaningful connection with what they are doing.

Once we embark on this line of thought, however, two other important points follow. One is that, having abandoned the distinction between those who are and those who are not innocent, we are no longer dealing with a simple moral dichotomy at all. The contrast between treating human beings as persons and treating them as things is (whatever Kant may have thought) a matter of degree, and in war in particular there is a continuum of degrees of depersonalisation. Consider the following sequence of cases.

(a) Nagel’s example of machine-gunning the soldier who is about to throw a hand-grenade at you.

(b) Sniper fire in the trenches, directed at anything which moves in the enemy lines.

(c) The bombardment of an enemy position, as when, in the First World War, an assault on enemy trenches was preceded by a blanket bombardment of the part of the line to be attacked.

(d) The bombing of an enemy airfield, intended to make it inoperable and therefore destroying indiscriminately the airfield itself, the equipment, and the personnel, both air crew and ground crew.

Paskins and Dockrill, ibid., also make their account less plausible than it might be by running together the idea of a ‘meaningful death’ with that of a ‘good death’. Though I do not want to dismiss the idea of a combatant
(e) The obliteration-bombing of a city.

I would describe these as successive stages in the depersonalisation of killing. This is apparent in the relevant descriptions of those who are killed. In (a), the soldier is killed because he is attacking the person who kills him. In (b), the soldiers are killed not because of anything specific which they are doing as individuals, but because, as soldiers in the enemy lines, they are in a general way engaged in the activities of a front-line soldier. In (c), they are in an even more general way occupying an enemy position, but they may not be doing anything at all; they may, for example, be asleep. In (d), those who are killed are people who engage in any of the range of activities which make them members of the armed forces; they may not be doing them at the time, and their activities may not have any distinctively hostile character, if for instance they maintain equipment or cook food. In (e), those who are killed are simply members of the enemy nation. Even that depends on the minimal performance of at least some activities; they must for instance reside in a certain place and go about their daily lives there, and their doing so may well contribute at least something to the war effort. Those activities, however, do not distinguish them from millions of other people.

I noted earlier that any version of the combatant/non-combatant distinction would inevitably involve some grey areas, and that this is admitted by those who maintain the moral relevance of the distinction. It turns out, however, that we have to recognise more than just a grey area. What we have is a continuum, a progressive depersonalisation of those who are attacked. In the sequence from (a) to (e), the attack is less and less a response to what people are actually doing, and increasingly a response to them simply as belonging to a certain category of people. The extreme of depersonalisation is the use or threatened use of nuclear weapons, which by their very nature do not admit of any more discriminate use than the destruction of a whole area.

The second point which follows is closely connected with the first. If we are to think of non-combatant immunity in Kantian terms rather than in terms of ‘innocence’, we not only have to

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‘dying well’, I suggest that this is a different matter, and what is to count as ‘dying well’ will bring in importantly
recognise a continuum. We also have to recognise that all killing is, to some degree, a violation of respect for persons. If the sequence from (a) to (e) is one of progressive stages of depersonalisation, that sequence has already begun with the act of killing as such. I have argued that the wrongness of killing is grounded in the attitude of respect for human beings as persons with their own lives to lead. To kill someone is to violate that requirement of respect. Moreover, most killing in war is already at a further stage of depersonalisation. As we have seen, killing in direct and immediate self-defence, as in case (a), is the exception. Combatants are rarely killed because of what they are doing, then and there, to the person who kills them. They are killed because they are ‘the enemy’, killed not as individuals but as members of the armed forces of a particular nation. We therefore have a problem. If the underlying objection to the indiscriminate killing of non-combatants is that it dehumanises them and fails to respect them as persons, and if this is only a more extreme version of the objection to all killing in war, then it might seem that the logic of non-combatant immunity leads us back to the position of pacifism. Perhaps we should morally rule out not only the killing of non-combatants, but also the killing of combatants.

Nagel recognises the difficulties here. He acknowledges that ‘it may seem paradoxical to assert that to fire a machine gun at someone who is throwing hand grenades at your emplacement is to treat him as a human being’ (p. 68). If this is so, ‘if hostile, aggressive, or combative treatment of others always violated the condition that they be treated as human beings’, then indeed, he says, ‘it would be difficult to make further distinctions on that score within the class of hostile actions’ (p. 64). Nevertheless, as we have seen, Nagel does want to hold that ‘extremely hostile behaviours towards another is compatible with treating him as a person’ (p. 64). He claims that we recognise this in the everyday distinctions we make between ‘fighting clean’ and ‘fighting dirty’. His example is that of standing for public office, where ways of ‘fighting dirty’ would include spreading scandal about your opponent, blackmailing him, flattening the tyres of his supporters, stuffing the ballot boxes and assassinating him. The example is fine. Undoubtedly these are ways of ‘fighting dirty’ and undoubtedly fighting a campaign by making speeches, putting forward policies, canvassing and appealing to the good sense of the voters would be ‘fighting clean’. The question remains:

different considerations.
can *killing*, in any conflict, ever be a way of ‘fighting clean’? Again, there certainly are forms of ‘hostile behaviour’ which are compatible with treating someone as a person. One may lose one’s temper with someone because of what s/he has done, one may argue with them, shout at them, perhaps even physically fight them. The question is: can one respect someone as a person and yet *kill* them? And, more problematically still, can one kill someone in war, simply because he is a member of the armed forces of the enemy, whilst also respecting him as a person?

The difficulties emerge most clearly in a further argument of Nagel’s. He suggests that his approach can also justify prohibitions on the use, even against combatants, of:

> ...certain particularly cruel weapons: starvation, poisoning, infectious diseases... weapons designed to maim or disfigure or torture the opponent rather than merely to stop him. It is not, I think, mere casuistry to claim that such weapons attack the man, not the soldiers (p. 71).

For the same reason, he says, the use of flamethrowers and napalm is ‘an atrocity in all circumstances’; their effects are ‘both extremely painful and extremely disfiguring’. With admirable candour, however, he then adds the following footnote:

> Beyond this I feel uncertain. Ordinary bullets, after all, can cause death, and nothing is more permanent than that. I am not at all sure why we are justified in trying to kill those who are trying to kill us (rather than merely in trying to stop them with force which may also result in their deaths). (p. 71)

Nagel’s uncertainty here is entirely appropriate. Killing an enemy combatant is, if anything is, a case of attacking ‘the man, not the soldier’. It does not just put an end to his soldierly activities, it puts an end to all his activities. To kill someone in war, by whatever method, is to abstract from the wider reality of the life which was his to live and is now destroyed; it is to respond to him simply in virtue of his existence as ‘the enemy’.

Conversely, the appeal of pacifism is characteristically achieved by reminding us that the soldier who is killed is not just a soldier but a human being, an individual who had a life of his own. A classic example is the passage which is the emotional claims of Remarque’s novel *All*
*Quiet on the Western Front.* Paul, the narrator, has stabbed a French soldier who has stumbled into the shell-hole where Paul is sheltering in no-man’s-land. He then has to watch the Frenchman die. He looks through the dead man’s papers and learns that he is ‘Gerard Duval, printer’. He looks at photographs of Duval’s wife and children. He says:

Comrade, I did not want to kill you...But you were only an idea to me before, an abstraction that lived in my mind and called forth its appropriate response. It was that abstraction I stabbed. But now, for the first time, I see you are a man like me...Forgive me, comrade; how could you be my enemy? (p. 147).

When Paul returns to the line, however, he puts the experience behind him. His friends tell him ‘You can’t do anything about it. What else could you have done? That is what you are here for’ (p. 150). He watches as a sniper shoots an enemy soldier in the distance. He tells himself, ‘It was only because I had to lie there with him so long...After all, war is war’. Remarque nevertheless leaves us in no doubt that Paul’s words to the dead Frenchman are the more honest expression of his experience.

*Depersonalising and Distance*

Cheyney Ryan, in a sympathetic discussion of pacifism, recognises that its moral appeal takes this form. He illustrates it with an example similar to the passage from Remarque, this one being not fictional, but an actual experience, recounted by George Orwell in an essay on the Spanish Civil War. Orwell tells how he had approached the enemy trenches:

At this moment, a man presumably carrying a message to an officer, jumped out of the trench and ran along the top of the parapet in full view. He was half-dressed and holding up his trousers with both hands as he ran. I refrained from shooting at him. It is true that I am a poor shot and unlikely to hit a running man at a hundred yards...Still, I did not shoot partly because of that detail about the trousers. I had come here to shoot at ‘Fascists’; but a man who is holding up his trousers isn’t a ‘Fascist’, he is visibly a fellow-creature, similar to yourself, and you don’t feel like shooting him.  

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As Ryan says, Orwell was not a pacifist, but the pacifist’s refusal to countenance any killing in war is a generalised version of Orwell’s reluctance to shoot on this occasion. ‘The problem, in the Orwell case, is that the man’s dishabille made inescapable the fact that he was a ‘fellow creature’, and in so doing it stripped away the labels and denied the distance so necessary to murderous actions’ (Ryan, p. 521). When generalised, this becomes what Ryan describes as ‘the pacifist’s problem’, namely ‘that he cannot create, or does not wish to create, the necessary distance between himself and another to make the act of killing possible’.

Ryan does not, however, endorse this attitude on the part of the pacifist. He implies that ‘the pacifist’s problem’ may sometimes be based on a misconception:

If the pacifist’s intent is to acknowledge through his attitudes and actions the other person’s status as a fellow creature, the problem is that violence, and even killing, are at times a means of acknowledging this as well, a way of bridging the distance between oneself and another person, a way of acknowledging one’s own status as a person (p. 523).

This is similar to Nagel’s claim that ‘extremely hostile behaviour toward another is compatible with treating him as a person’. Again I want to say that though we can think of cases where this may be so, they are very different from the standard cases of killing in war. Forms of hostility outside a military context may indeed be a response to the other as a person. Even in the context of war, hand-to-hand combat in which each combatant acknowledges and respects the motivation and the prowess of the other may perhaps be ‘a way of bridging the distance between oneself and another person’. Aerial combat, it is said, has retained something of that character in modern time. But, in modern war especially, most of the killing is literally done at a distance, by bombing, shelling, guided missiles and the like. When, in the Falklands War, the General Belgrano was sunk by a British submarine, and when HMS Sheffield was destroyed by an Exocet missile, these acts were in no sense a bridging of the distance between persons. Moreover, the distancing is psychologically necessary; those who are engaged in the activity of killing would find it much more difficult to do it face to face. The hardened combat veteran can perhaps kill with equanimity, but the hardening process is necessary. An important part of military training is breaking down the psychological inhibitions against killing. And these are not just psychological inhibitions, they are, as I have argued, the basis of our moral inhibitions. To overcome those moral inhibitions it is necessary
to resort to the kind of distancing which blinds killers to the humanity of the killed. Ryan's way of answering the pacifist, then, seems unconvincing.\footnote{Note also, in the sentence quoted from Ryan, the assertion that 'violence and even killing' may be 'a way of acknowledging one's own status as a person'. This may be true, but does not thereby support the claim that killing is a way of acknowledging the other's status as a person. There are other ways of asserting one's own personhood and self-respect, and these must always be morally preferable unless violence and killing can somehow be shown not to violate the personhood of the other. Ryan invokes 'Hegel's account of conflict in the master-slave dialectic'. In that account Hegel describes the primitive encounter between two combatants, each striving to assert his personhood by killing the other. What Ryan forgets is Hegel's demonstration that this fight to the death is self-defeating because the victor, in asserting his own personhood through conflict, obliterates the personhood of the other and is thus unable to obtain from the other the recognition which he sought. Ryan further confuses things by asserting that fighting may be a way of acknowledging the personhood of those whom we defend; 'the willingness to commit violence is linked to our love and estimation for others' (p.

There is, however, another approach which we must consider. We might agree that killing in war does involve distancing and depersonalising the enemy, but we could then ask, 'Is there necessarily anything wrong with this?' Perhaps such distancing is something that has to be done, and is sometimes not objectionable, but even right and appropriate, in war and in other spheres of life.

I do think that some kinds of 'distancing' are appropriate, but the term is a vague one and we should be clear what kind we are talking about. I have suggested previously that the attitude of 'respect' itself involves a kind of distance. It is a matter not only of identifying with, and responding sympathetically to, the hopes and fears and desires of others, but also of standing back and letting them live their own lives instead of trying to live them for them. It involves recognising not only the 'humanness' of the other, that s/he is a human being like oneself, but also the 'otherness' of the other. This, however, is not the kind of 'distance' we are now discussing. We are concerned with the distancing exemplified in the Remarque passage, in Paul's movement away from the encounter with the French soldier as a person with a life of work and family, interests and affections, back to the view of the French as an impersonal category, 'the enemy'.

It is not absurd to suggest that this kind of distancing is sometimes necessary and desirable. An example would be the attitude which has to be adopted by juries and judges in courts of law. They have to set aside any personal sympathy for, or hostility towards, the person on trial, and pay attention simply to the question of the guilt or innocence and the appropriate penalty. If the defendant is guilty, the court must set aside the thought that s/he may also be someone

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with a wider life of interests and feelings and commitments, perhaps someone who would be crushed by the sentence and whose family and friends would be devastated; the court must respond to him or her as a criminal, ignoring the other aspects of his or her identity. Again, to take a rather different case, a teacher will need to avoid becoming too personally involved with his or her pupils. Of course a friendly and informal manner is valuable, and an understanding of and sympathy for difficulties in the pupil’s personal life may be an important part of sensitive teaching, but there has also to be the element of distance, the acceptance that too close an emotional involvement may jeopardise the teacher-pupil relation and stand in the way of the teacher’s impartial judgement of the pupil’s work. Likewise, doctors and other members of the medical profession have to maintain a certain distance from their patients. Again this is not to deny the value of the human touch, but if they allowed themselves to be fully sensitive to the sufferings of their patients, and to respond to every one of them at the personal level, the work would become unbearable and they would become incapable of performing it properly. In these cases, then, it is quite proper to shut off a whole range of human responses and react to the other person simply as the occupant of a particular limited category. Why then should a similar distancing not be just as acceptable in war? Can one not argue that war-fighting, like these other institutionalised activities, involves a necessary depersonalisation? Perhaps in order to do the job you have to forget about the complex human identity of the people against whom you are fighting, and think of them simply as the enemy.

Are the cases really analogous? Notice some important differences. In the case of the doctor and the teacher, their distancing is done partly in the interests of the patient or the pupil. This makes it crucially different from distancing in war. One could say that in these cases there is depersonalisation at the surface level but not at a deeper level: the patient or pupil is being respected as a person, for it is in the light of a full recognition of their needs and interests that the distanced attitude is adopted.

The judicial case is more difficult. The distancing is not straightforwardly in the interests of the person on trial. That might be so. It might be in the interests of an innocent defendant that the judgement should not be influenced by any personal prejudices or antipathies of the jury.

523). Again this is no answer to the pacifist’s refusal to ‘defend our loved ones’ by obliterating the personhood of
members or the judge. On the other hand the opposite might be the case. It might be that if the court took full account of the personal situation of the defendant and were swayed by his or her predicament and by the thought of how his or her life would be ruined, they would be reluctant to pass the judgement which they nevertheless have to pass in order that justice may be done. Although it can be said to be in the interests of the community as a whole that courts should distance themselves in this way, it cannot in such cases be said to be in the interests of those who are sentenced. Perhaps here, then, we have a more plausible analogy with the case of war, of which something similar might be said. In war too, perhaps, the distanced attitude has to be adopted so that justice may be done.

Here too, however, there are crucial differences between the two cases, and the most important point is once again that the judicial ‘distancing’ is sustained by a strong notion of ‘responsibility’ which, as we have seen, cannot be applied to combatants in war. In the courts, distancing is necessary in reaching a verdict of ‘guilty’ or ‘innocent’ because what is at issue is solely the question of fact, on which other considerations should not intrude. If a verdict of ‘guilty’ is reached, the question of sentencing then arises. Here judges will distance themselves in the sense that, if they are impartial, they will not be distracted from passing sentence by the thought of the suffering it will cause and by sympathy for the defendant. This, however, is not because they ignore those considerations, it is because they can regard the suffering as in some sense deserved. The defendants are not strictly speaking ‘depersonalised’ or ‘dehumanised’. On the contrary, they are treated as they are because of what they have done, because of the actions for which they are responsible. That is why Kant himself insisted that ‘respect for persons’ is shown by punishing criminals, since that punishment involves treating them as responsible for their own actions.\(^\text{100}\)

Two other points are worth noting. The first is that judges can take account of mitigating circumstances. For example, a woman may be found guilty of shoplifting, but she may have been under great pressure at home, perhaps her family is breaking up and her action is an expression of anxiety rather than of any criminal intent. The fact that mitigating circumstances


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can be considered indicates that the judicial process does not involve a completely depersonalising attitude towards the defendant. It also reinforces the point about responsibility. That point was that the punishment may be justified by the criminal’s responsibility for the crime. Accordingly, if the judgement of personal responsibility is modified by the consideration of mitigating circumstances, it may be appropriate for the punishment to be correspondingly modified.

The second additional point to note is that though punishment as such may be compatible with respect for persons, certain kinds of punishment may not be. That claim could in particular be made about the death penalty. Other kinds of punishment, even a term of imprisonment, in some sense leave the rest of the criminal’s life intact, they respect him or her as a person whose life goes on beyond his or her status as a criminal. The criminal is punished in proportion to what s/he has done and his or her responsibility for it, but it is not the case that his or her whole life is engulfed by the punishment. That, however, is precisely and literally the case with the death penalty. Even the criminal condemned to life imprisonment retains the possibility of activities through which he can give a sense to his situation, can make some meaningful response to what he has done and what has been done to him (he can show penitence, he can try to reform, he can rebel and so on). The executed criminal of course has no such possibilities. We are therefore returned to the question whether respect for persons is ever compatible with killing them, even when the killing would be punishment for a deed for which they are responsible. Kant thought that the two things could be compatible. He argued for the death penalty as the only punishment for murder which fully recognises what the murderer has done.¹⁰¹ I am not convinced by this. Hostile treatment of another may be compatible with respect insofar as it is a response to what the person has done, but the death penalty, and killing in general, submerges the person in the particular deed for which s/he is killed. It is difficult to see how the death penalty or any other killing can be compatible with respect for that person as an agent with a range of aims and aspirations and projects.

In all these ways, then, the analogy between the distancing of the judicial process and the distancing of war breaks down. Killing, whose place in the judicial process is of doubtful

¹⁰¹ ibid.
validity, is precisely what the distancing in war makes possible. The idea that killing in war could be inhibited by a knowledge of ‘mitigating circumstances’ is of course ludicrous. And that in turn points to the central difference. The majority of the combatants who are killed in war are killed not because of what they have done, not because of actions for which they are in any strong sense responsible, but because they are the enemy. That is where the dehumanisation resides, and it is quite different from the necessary distance which is maintained in the judicial process and in other spheres. In the light of that difference it would seem that the distancing of the enemy in war is of a distorting and falsifying kind which cannot be defended as either necessary or desirable.

**War and Indiscriminate Killing**

I began this chapter with the idea of non-combatant immunity. I suggested that this idea, if it has any validity at all, must be more than just a useful convention. Such a convention could stand a chance of being adopted only because the idea of non-combatant immunity has its own independent moral appeal. I argued that the wrongness of killing civilians cannot be equated with the wrongness of killing the innocent, for there is no morally relevant sense in which non-combatants can be contrasted with combatants by being described as ‘innocent’. I also argued that no valid idea of non-combatant immunity can be derived from that of self-defence.

The most plausible interpretation of non-combatant immunity, I suggested, is that which gives it a broadly Kantian basis. What is especially wrong in killing civilians, according to this view, is that they are not killed because of anything they are doing. They are treated simply as things, instruments of military strategy, and are not respected as agents, as persons. However, I argued that this objection to the killing of civilians in war is only a more extreme case of the objection to all killing in war. There is indeed a difference between killing non-combatants and killing combatants, but it is a difference in degree, not a difference in kind. The reason why the killing of human beings in general is normally wrong is that it is a failure to respect the lives of persons, active beings with their own hopes and aspirations. And the killing even of combatants in war is most often a depersonalised killing which reduces individual human lives to the status of ‘the enemy’.

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I conclude that the principle of non-combatant immunity does point to something important, but it does so only imperfectly. Some kinds of killing in war are worse than others. Indiscriminate attacks on the civilian population are worse than attacks on the armed forces of the enemy. Certain forms of warfare, such as the use of nuclear weapons, or any obliteration bombing of cities or other populated areas, are a moral atrocity. They are extreme cases of reducing people to the status of objects which can simply be used or destroyed for other people’s purposes. The contrast is not, however, between the killing of non-combatants which is not permissible and the killing of combatants which is morally legitimate. If the killing of non-combatants is as unthinkable as ‘just war’ theory maintains, then the justifying of war itself must be, to say the least, deeply problematical.

**Can There be a ‘Just War’?**

In this and the previous chapter I have been considering the two main components of modern versions of ‘just war’ theory. In attempting to sum up my assessment of the theory, it is important to recall the task it needed to perform. In chapters 2 and 3 I tried to establish the special status of the moral prohibition against the taking of human life. I argued that justifications for killing cannot be subsumed within a utilitarian calculation of costs and benefits, or even within a narrower calculation of lives lost and lives saved. On the other hand, I was not able to defend a strict absolutism. We cannot rule out the possibility of exceptions to the prohibition of killing. Any such exceptions, however, would need a justification of a special, non-utilitarian kind. The two main components of the ‘just war’ theory, taken together, are an attempt to supply this.

This attempt is made in the moral vocabulary of *rights*. The strength of the principle that it is wrong to kill can be expressed by talking of a ‘right to life’. Killing in war, as a defence against aggression, may then be identified as an exception by claiming that because the aggressors have violated the rights of others, their own rights to life are in some way negated. The moral conflict may then be presented as a problem of clarifying the relations between competing rights. The resulting claim is a strong one: war may be required for the sake of
justice. War may be not merely a terrible but unavoidable necessity, it may be positively just if it is fought in defence of rights.

I noted that the strongest version of this approach consists in assimilating a just war with the imposition of punishment. The analogy with punishment is problematic on various counts. Essential to the institution of punishment is the existence of an independent and impartial judicial authority. If private persons ‘take the law into their own hands’ and retaliate against those whom they think have wronged them, this cannot be properly described as the operation of penal justice. For war against an aggressor to count as punishment, therefore, there would have to be an independent judicial authority at the international level, empowered to impose such punishment, and its mode of operation would have to incorporate the essential features of due legal process (such as allowing the accused the right to make a full legal defence). Such an international authority does not exist. A country which goes to war on the grounds that it is the victim of aggression is therefore acting as judge in its own cause, and combining the roles of plaintiff, prosecutor, judge and executioner. Other countries which come to its aid against its alleged aggressor are, though not judges in their own cause, still combining all but the first of those four roles, and the accused country cannot plead its case as it would be able to do in a court of law.

An international authority may one day come to exist. Some would say that the United Nations is already an embryonic version of such an authority; its Security Council did, for instance, authorise the war against Iraq in 1991 to reverse the invasion of Kuwait. However, if any such body is to act as a judicial authority, meting out punishment, its mode of operation will have to be very different from war in its present form. The judicial body would have to be genuinely independent of the vested interests of any particular country. The most important point, however, is that the conception of a just war as a form of punishment would have to depend on a strong notion of guilt and innocence. My argument in this chapter has been that such a basis is not available. We have seen the difficulties in making any relevant distinction between those who are and those who are not ‘innocent’ in war, and making it in a way which would enable one to say that combatants are not innocent. Such a distinction can be made only by using the word ‘innocent’ in a special and looser sense. Though I have rejected such a use of the word, one might defend it, as Waltzer, Kenya and Nagel do. But it would not be
sufficient to support the idea of punishment. War, even if fought solely against combatants, involves punishing people who are 'innocent' in any relevant sense.

If the punishment model fails, there remains the possibility of employing the wider comparison with self-defence in an attempt to present war as a just exercise of rights, overriding the right to life of those who are killed. In civil life one may in extreme circumstances, if one’s life is at stake, kill in self-defence without having to claim that one is acting as a properly constituted judicial authority meeting out punishment. The claim that war is justified as self-defence need not, therefore, involve the stronger claim that it is justified as punishment. My argument in these two chapters has, however, been intended to show that the self-defence model is equally flawed. The first objection, developed in chapter 4, is that the analogy between individual and collective self-defence breaks down. At the individual level, if one is to rebut the prohibition against the taking of life, one has to show that killing in self-defence is a necessary response to a threat to one’s own life, or to some comparable threat. At the collective level, however, military aggression, to which a war of self-defence is supposed to be a response, is not necessarily a threat to the lives of those who are attacked. The analogy is therefore inadequate to justify the literal killing which a war of self-defence entails. If we go beyond the analogy, to emphasise what is literally being defended when a nation is attacked, we can recognise that the goods which aggression threatens may be important. Military aggression which threatens to destroy a nation may thereby be a threat to a culture which is rooted in the lives of people who share a territory, and a language and traditions. It may threaten to destroy an authentic political community which enables its members to participate in political self-determination. These may be things of great value. Whether they are at risk, however, will depend on the particular case, and the mere fact that borders are violated does not settle the issue. Even if they are at risk and worth defending, we still have to show that the protection of such things can justify killing on a massive scale. The self-defence analogy purported to supply that justification, but we have seen that the analogy collapses.

My second line of argument against the self-defence model emerges from the present chapter. I suggested in chapter 4 that the justification for killing in self-defence, no less than the justification for punishment, depends crucially on claims about responsibility. The idea is that the attacker is responsible for creating a situation which poses an inescapable choice of lives,
and consequently if someone must be killed it is appropriate that he should be the one. Like the punishment model, then, the self-defence model needs to rest on a fairly strong notion of individual moral responsibility. Those who are killed in a war of self-defence are justifiably killed only if they bear some degree of individual responsibility for the attack. We have seen that this condition can, at most, be only imperfectly satisfied. Therefore the self-defence model of war is as untenable as the punishment model.

There remains the possibility of appealing not to the idea of collective self-defence, or to an analogy between individual and collective self-defence, but to individual self-defence itself as a direct justification for war. Sometimes people have literally to fight for their lives. Military aggression may sometimes be a direct attack on the lives of the members of a community; it may sometimes involve extreme threats of other kinds which, we have seen, are thought to justify killing in individual self-defence, such as rape or torture or enslavement.

Though such examples of atrocities may be all too familiar, they are not necessarily characteristic of military aggression and invasion as such. If there is a moral justification for lethal resistance in such cases, it is not a justification of a kind specific to war. It appeals to more basic considerations about the lives of individuals. What we are talking about here is not war understood in terms of the ‘self-defence’ model, it is self-defence.

Direct appeals to individual self-defence, then, are not characteristic of the ‘just war’ theory. I noted when introducing the theory at the beginning of the previous chapter that the idea of ‘just cause’ has not always been focused so specifically on the issues of territorial invasion and defence against aggression. That is a relatively recent development. It is no accident, however, that the theory has acquired this focus. The primary, though not exclusive, institutions of war in the modern world are the armed forces of nations and their intelligence agencies. Unlike dynastic regimes, founded on systems of personal loyalties, nation-states define themselves by their territory. The archetypal injustice which one nation can inflict on another is invasion of its territory. It is therefore in keeping that nations should seek to legitimize their profession of armed forces, and their willingness to use them, by reference to the injustice of territorial aggression. As Walzer puts it, ‘aggression is the name we give to the crime of war...it is the only crime that States can commit against other States’ (JUW, p. 51).
My critical discussion of ‘just war’ theory has, then, been concentrated entirely on two of the traditional criteria for a just war: in the theory of *jus ad bellum*, the criterion of ‘just cause’ interpreted as the right of defence against aggression, and in the theory of *jus in bello*, the criterion of ‘non-combatant immunity’. I have concentrated on these two not only because they are the two criteria most frequently cited and discussed, but also because they are, I suggest, the two which are essential to any attempt to see war as a matter of *justice*. If that is so, and if I am right that these two criteria do not stand up to critical scrutiny, it must follow that war cannot be ‘just’. I shall attempt to back up this claim by looking at the other traditional criteria. If ‘just cause’ and ‘non-combatant immunity’ cannot do the job, can any of the other criteria be used to show that a war can sometimes be just?

I shall argue that each of the other criteria is either tied to that of ‘just cause’ and unable to provide any independent justification for war, or, if it can stand independently, must then take on a rather different meaning. Consider first the criteria of ‘legitimate authority’ and ‘formal declaration of war’. It is clear that these do not carry any independent *positive* weight. If a war is not being fought for a just cause, it cannot be rendered just by the fact that it has been formally declared, and by a legitimate authority. These are simply additional conditions which have to be met. A war fought for a just cause may still be unjust if it fails to satisfy these conditions, but it cannot be made just by them alone. All that they do is to formalise the idea that wars are the activities of societies, not of private individuals. If the ‘just cause’ criterion worked, it would be a way of showing that there can be special justifications for taking life in war, in the name of a legitimately governed society, which would not be available to justify the taking of life by a private individual. ‘Legitimate authority’ and ‘formal declaration of war’ would then simply spell out the requirement that the action really is that of an organised society. Conversely, if ‘just cause’ fails to stand up to examination as an adequate criterion, the other two criteria fall with it.

The criteria of ‘rightful intention’ and ‘reasonable hope of success’ are likewise tied to that of ‘just cause’. They simply indicate ways in which, even if the ‘just cause’ condition is satisfied, this may not be enough. It is not enough if that condition is satisfied only incidentally, and the real objective of the war is something different. Suppose that nation A has invaded nation B, and nation C seizes the opportunity to intervene on behalf of nation B as an excuse to damage
the economy of nation A, its economic competitor. Though nation C formally had a just cause, its action would still be wrong. But of course ‘rightful intention’ cannot carry any positive weight independently of ‘just cause’, for the rightful intention must be precisely an intention to wage war for a just cause. Similarly ‘reasonable hope of success’ must mean a reasonable hope of succeeding in a just cause, and if there is no just cause then ‘reasonable hope of success’ becomes irrelevant.

Two interesting cases are those of ‘proportionality’ (a criterion both of *jus ad bellum* and of *jus in bello*) and ‘last resort’. The idea of proportionality has been variously interpreted. Insofar as it suggests the need to weigh the goods and harms of prospective action, it has sometimes been thought to be an essentially consequentialist requirement, implying that a war, or any other action, can be justified if it will on balance produce more good or less harm than the alternatives. That, however, is not how the idea was traditionally understood within the ‘just war’ theory and the wider context of Christian ethics from which the theory grew. ‘Proportionality’ was not a matter of weighing up all the possible goods and harms of an action and all its alternatives - the sort of consequentialist approach which I criticised in chapter 3. Rather, it was a matter of proportionality between a specific action and the specific good aimed at by the action, that is to say, a proportionality between ends and means.\(^{102}\) Applied to the case of war, the question would be whether the waging of war, and the form which this was likely to take in the particular circumstances, would be disproportionate to the specific good which the war was intended to achieve. Understood in this way, ‘proportionality’ is not independent of ‘just cause’. In order to decide whether the requirement of proportionality can be satisfied, one would have to look at the just cause for which it is proposed that the war will follow, and one would then have to ask whether the harms which the war is likely to produce will be such as to undermine or frustrate the specific good which constitutes the just cause.

Consider an example. Suppose that, at the height of the Cold War, Warsaw Pact troops had cut off all Western access to West Berlin, with a view to incorporating the city into the

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German Democratic Republic. The NATO countries would then have considered whether to go to war to reverse this action. There would have been a strong possibility that any such war would turn into a nuclear war. There is no knowing what level of escalation such a war might have reached and to what devastation it might have led, but let us suppose, for the sake of argument, that a likely consequence would have been the almost complete breakdown of organised social life in both Germanies and in several other countries of Europe - the deaths of the majority of those populations, the wholesale destruction of buildings and property, and the disintegration of cultural life and political life to such an extent that it would take at least a generation for those societies even to begin to recover. The question of proportionality could then be formulated as follows. The intended good, which was supposed to be the just cause for the war, would presumably be something like the preservation of an independent political society and free institutions. However, will not a war that is conducted in this manner and with this outcome be, in effect, an assault on the very same good for which it was supposed to be fought? It may in some sense achieve the goal of a ‘free West Berlin’, but all the characteristic objects of free political life will have been drastically curtailed in the process. Put like that, ‘proportionality’ has affinities with ‘reasonable hope of success’, insofar as it points to the way in which the conduct of a war may be self-defeating. ‘Proportionality’, however, is a broader notion since it recognises the possibility that success might be nominally achieved, but only by sacrificing things of the same kind for which the war is being fought.

Understood in this way, then, ‘proportionality’ cannot provide an independent justification within the ‘just war’ perspective. It refers to proportionality between the conduct of the war and the specific good at which it is aimed. Therefore there must already be a good to be aimed at which satisfies the requirement of ‘just cause’. One cannot appeal to ‘proportionality’ to justify a war simply on the grounds that the good it achieves will outweigh the harm. Suppose that one country (call it ‘America’) were to invade another (call it ‘Cuba’) which had itself committed no injustice, on the grounds that American intervention would change Cuba in ways which would be better for Cuba and better for the world. Even if that claim about the likely outcome were correct, it would not make the war a just war.

There remains the possibility that we could employ something like the idea of proportionality outside the context of the ‘just war’ theory as a way of independently assessing the moral case
for war. It would then, however, mean something importantly different. On the one hand, it would not necessarily be a reversion to simple consequentialism. In particular, it would have to incorporate the recognition that the taking of life in war is a distinctive evil that cannot be reduced to utilitarian terms. Nevertheless, accepting the fact that there are such qualitatively distinct goods and harms, we might then be able to use something like a ‘proportionality’ argument to justify a war in terms of the weighing of genuinely comparable evils. For instance, it might be argued that the evil represented by Nazi policies of genocide and the concentration camps was so radical a denial of the value of human life as to be worse even than the slaughter of war which might therefore have been a necessary price to pay. This would not be a utilitarian argument. The argument would be that the very same good, the valuing of human life, which normally rules out the waging of war, might in this case require a resort to war. There might in that sense be a kind of proportionality between the waging of war and its intended end. I shall look at the possibility of this kind of argument in the next chapter. For the moment I want to note that though such an argument might be mounted as a way of showing that war could be ‘the lesser evil’, it would not be a demonstration of the justice of such a war.

Why does this matter? It may appear that I am being simply pedantic. If a war can somehow be shown to be morally permissible, does it make any difference whether or not this is expressed in the language of ‘justice’: Yes, I think that it does. There is an important distinction between possible moral defences of war as a ‘lesser evil’ and as an act of ‘justice’. One way of putting the difference would be this: if one can say of an action which perhaps inflicts great suffering or harm on some human beings that it is an act of justice, then, despite the harm that is done, it is not normally an action for which the agents should properly feel guilt or remorse. The point here is not merely a psychological one - that if people can describe their action as ‘justice’ they are less likely to feel guilty about it. The point is a moral one - that these are not grounds for remorse. This is why the proposed criteria for a ‘just war’ have to take the specific form that they do, and why the ideas of ‘just cause’ and ‘non-combatant immunity’ are so central. If the infliction of great harm, in particular the taking of life, is to count as an act of justice rather than as a matter for remorse, it must be because those on whom it is inflicted are culpable in some way. The most clear-cut case is that of punishment, where the infliction of harm is justified in the vocabulary of ‘guilt’ and ‘innocence’, and we
have seen that the ‘just war’ theory is accordingly drawn towards the ‘punishment’ model. I have argued that that model cannot be sustained. The other relevant model, we have seen, is that of ‘self-defence’. This too depends, if not on notions of guilt and innocence, at any rate on ascriptions of moral responsibility, in some fairly strong sense, to those who are harmed or killed. I suggested when discussing individual self-defence that there are difficulties in seeing even a permissible act of self-defence as an act of justice. More importantly, I have now argued that the model of a ‘just war’ as collective self-defence cannot be sustained, both because what is being defended is not necessarily comparable to the defence of an individual’s life, and because those against whom it is being defended are not necessarily morally responsible in the requisite sense.

Suppose, in contrast, that a moral case for war could be made which was not an argument in terms of ‘justice’ but a ‘lesser evil’ argument. I have said that the appropriate attitude on the part of those who have acted in this way, and who see what they have done in these terms, would be different from a sense of having acted justly. The appropriate response would be one of remorse. It might take something like the following form:

I think that after the war there will have to be some great penance done for the killing. If we no longer have religion after the war then I think there must be some form of civic penance organised that all may be cleansed from the killing or else we will never have a true and human basis for living. The killing is necessary, I know, but still the doing of it is very bad for a man and I think that, after all this is over and we have won the war, there must be a penance of some kind for the cleansing of us all.  

The war in question is the Spanish Civil War, and the character to whom Hemingway assigns these thoughts is Anselmo, an old man, a peasant, fighting for the Republic. If we compare such sentiments with the usual attitude of those who consider that their winning of a war has been an act of justice, we can perhaps see what is at stake in distinguishing between arguments from justice and other possible kinds of moral defence of war.

Finally, I come to the idea of ‘last resort’. I think it is clear that within the ‘just war’ theory this too is a criterion which cannot itself add anything to the case for war, but is simply a

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further requirement to be satisfied. The bullying dictator with designs on a neighbouring territory who, having for a year or two attempted unsuccessfully to acquire that territory by means of a combination of threats and diplomacy, declares 'My patience is exhausted' and launches an invasion, can hardly claim that the military offensive is any the more justified because it is a last resort. Within the 'just war' theory, 'last resort' presupposes that there is a just cause, and requires that, even so, all the alternatives must have been exhausted before there is resort to war.

If something like the idea of 'proportionality' were to be developed outside the context of the 'just war' theory as a way of defending the resort to war, it is possible that some version of the idea of 'last resort' could take on a new significance in combination with it. What I have in mind can perhaps be illustrated by referring again to the comparison with individual self-defence. It is not exactly that killing in self-defence is a 'last resort', in the sense that one must first try all the other options, but rather that there is no other option - one is, as it were, already landed in a situation of 'last resort'. In a similar way the resort to war might seem the only option available as a means of resisting an even greater comparable evil, and one might then feel that in that sense one has 'no choice' but to fight. This again is an idea to which I shall return in the next chapter, and of which I want to say for the moment that it is very different from the idea of war as 'just'.

Conclusion: A Summary of the Strengths and Limitations of the 'Just War' Theory Based on an Analysis of the Gulf War

Both the attractions and the difficulties of 'just war' theory are illustrated by the Gulf War of 1991, in which an international force headed by the United States, invoking resolutions passed by the United Nations Security Council, reversed the Iraqi invasion of Kuwait. The Allies' motives for resorting to war seem to have been mixed. Almost certainly a significant consideration was that Iraqi control of the Kuwait oilfields would give Iraq an unacceptable

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104 For a range of discussions of this war in the light of 'just war' theory, see David E. Decosse, But Was It Just? (New York: Doubleday, 1992).
amount of influence over world oil prices. This concern was at first made explicit, but was subsequently played down. More strongly emphasised was the callously authoritarian nature of the Iraqi regime under the leadership of Saddam Hussein. What most effectively generated support for the war, however, was the straightforward fact of aggression; the Iraqis had invaded Kuwait, had refused to withdraw and must therefore be forced to do so. President Bush condemned the Iraqi action as ‘naked aggression’.¹⁰⁵ That this motive was decisive for the Allies appears to be confirmed by events in the aftermath of the war. After Iraqi forces had been evicted from Kuwait, the Allies encouraged the Iraqi people to overthrow their regime, but when certain sections of the population (the Kurds in the north, and Shi’ite groups in the south) tried unsuccessfully to do so, the Allies declined to help them; this, they said, was an internal matter in which they could not intervene. Only reluctantly did they send troops into the Kurdish areas for a limited time, in order to prevent the massacre of the Kurds and to cope with the refugee problem.

In all this, then, the Allies appeared to be following the ‘just war’ theory: a war of intervention was unacceptable, but a war to reverse aggression was justifiable. The example well illustrates the pros and cons of taking this to be the decisive consideration. There is no doubt that the borders were there, and that the Iraqis violated them. On the other hand, the borders of Kuwait were artificially defined (by the British, at a conference convened by them in 1922), they were relatively arbitrary and did not coincide with any clear divisions between distinct cultural groups or nationalities. It could be claimed that the borders, though in a sense arbitrary, did make possible the life of a political community. Kuwait was not a democracy. Power was in effect monopolised by a single family, the al-Sabahs. Nevertheless their rule was less repressive than that of many other regimes in the area (including Iraq itself), there was an authentic political movement within Kuwait pressing for democratic reforms and Kuwait could therefore reasonably be described as, in Walzer’s terms, a genuine political community, one which had the right to work out its own future. It was an odd sort of political community, since most of its inhabitants were foreign workers who had no political rights at all, but its problems were ones to be resolved by the interplay of internal forces, and there is no doubt

that the effect of the Iraqi invasion was to destroy, not to enhance, the limited political life of Kuwait.

The theory of *jus ad bellum*, then, could be said to have some plausibility in this case, and by its standards the Allies’ military action to secure an Iraqi withdrawal from Kuwait could plausibly be described as ‘just’. From the point of view of *jus in bello*, however, the Allies’ conduct of the war must, by any plausible criterion, be described as the killing of the innocent. The main feature of the war was a 43-day intensive bombing campaign against Iraq. This was said to be directed at ‘military targets’, but the phrase was given a broad interpretation, to include command and control centres (located in or near major cities), and those elements of the economic infrastructure that were particularly important for Iraqi military operations, such as the transport system and power supplies. ‘Legitimate’ targets were therefore taken to include bridges and roads, electrical power stations and oil refineries. The bombing of such targets inevitably involved large numbers of civilian casualties. Longer-term effects on civilian life appear to have been even more catastrophic. Loss of electrical supplies meant that water purification plants and sewage plants, both entirely dependent on electricity, could not function. This resulted in epidemics of gastroenteritis, cholera and typhoid. The child mortality rate increased to more than double its normal level as a result of the spread of these diseases together with the effects of malnutrition, and hospitals and health centres, also affected by the loss of electricity supplies, were quite unable to cope.

After the bombing campaign, the land war was a rout. The Iraqi army disintegrated in chaotic retreat from Kuwait, and were mown down by Allied air strikes as they retreated. Iraqi military casualties were estimated by the US Defence Intelligence Agency to be between 50,000 and 150,000.\textsuperscript{106} Most of these were suffered by the conscript army, which had already been devastated by the war with Iran and had by now conscripted a large proportion of the adult male population. The elite Republican Guard, the principal prop of Saddam Hussein’s regime, survived with relatively light casualties, and of course the regime stayed in power, intact and unharmed. Therefore, even if we employ less strict notions of guilt and innocence

\textsuperscript{106} The figure was an imprecise estimate, and has subsequently been questioned by some experts. See Roland Dannreuther, *The Gulf Conflict: A Political and Strategic Analysis, Adelphi Papers* no. 264, published for the
than would be required for the punishment model of war, the fact is that most of the Iraqi civilian and military victims of the war were not people who could be held primarily responsible for Iraqi aggression.

What does all this tell us about ‘just war’ theory? It is not necessarily a criticism of the theory. At least in the case of the civilian victims, the theory may itself furnish a basis for criticism of what happened. It could be held that the bombing of Iraq violated the traditional requirements of *jus in bello*. Whether we reach this conclusion will largely depend on what we make of the phrase regularly used by the Allies to refer to the civilian casualties of the bombing, as ‘collateral damage’. The phrase is clearly intended to perform a similar function to the doctrine of double effect, excusing the civilian casualties as unintended, but foreseen, side-effects. Could the theory of *jus in bello*, when coupled with the doctrine of double effect, allow a bombing campaign of this kind? It could be argued that this would, in fact, be a misuse of the ‘double effect’ idea. The doctrine is not supposed to give *carte blanche* for any amount of unintended civilian loss of life, on however large a scale. Unintended side-effects must still meet the requirement of proportionality, and it could be maintained that the destruction of civilian life in Iraq, even if not directly intended, was out of proportion to anything positive that might have been achieved by the bombing, and was therefore illegitimate.

In part the difficulties we encounter here are created by the vagueness of the ‘double effect’ doctrine, as we saw in chapter 3. It is not clear what is to count as the ‘intended aim’ and what are to count as ‘unintended side-effects’. In the present case, was the destruction of Iraq’s economic infrastructure the intended aim or the unintended side-effect? We have also seen in the present chapter that a similar vagueness surrounds the attempt to distinguish between ‘civilian’ and ‘military’ targets. What should we say, for instance, of a bridge which has strategic military importance, but is also regularly used by civilians; or of an air-raid shelter which is used both by civilians and by the military? Are they civilian or military targets? The examples bring out the lack of clarity in the very idea on non-combatant immunity.

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International Institute of Strategic Studies (London, 1992), pp. 56-7. He suggests that ‘a more realistic figure of Iraqi soldiers dead might be in the region of 25,000 to 40,000’. All such figures remain controversial.
It is a matter for debate, then, whether the combination of the ideas of ‘non-combatant immunity’ and ‘double effect’ could be used to defend the bombing of Iraq. However, I think it also has to be said that if that combination of ideas lends itself to such a conclusion, it is to that extent discredited. To describe several thousand civilian deaths as ‘unintended’, even if it is true, is an evasion of responsibility. I have allowed in chapter 3 that intentions must carry some weight in determining moral responsibility, since a failure to act, if it is intended to secure someone’s death, may be morally equivalent to killing. It does not follow, however, that we are necessarily any less responsible for deaths which we bring about, simply because they are unintended. In some cases we may be less responsible, for instance, if other people’s deliberate actions intervene to bring about the unintended effect. In cases such as the one we are now considering, however, we are talking about deaths which are directly, actively and knowingly brought about. It seems to me that in such cases the doctrine of double effect puts altogether too much weight on the description of the agents’ intentions.

Without back-up from the doctrine of double effect, the principle of non-combatant immunity must entail moral criticism of the bombing of Iraq. Could the war have been fought in any other way? This raises the wider question: can modern wars in general be fought in any other way than by the bombing of targets of economic importance and the consequent sacrifice of civilian lives? No doubt they sometimes can. In the previous chapter I mentioned the example of the war to re-take the Falkland Islands. This was a war fought with almost no loss of civilian life. Such wars, then, are possible. However, a war fought over a few sparsely inhabited islands in the South Atlantic, hundreds of miles from any major urban or industrial centre, is hardly typical of modern warfare. The Gulf War is much more typical. Military campaigns fought with modern technology depend on the strength of economic support, and the chances of success are likely to be enhanced by an ability to destroy the enemy’s economic resources. Lines of communication and supply will assume a vital importance, but these cannot be cut off, nor can disputed territory be fought over, without carrying the war into populated areas, and the immense destructiveness of modern weapons is then likely to mean heavy civilian casualties. However, though modern conditions make it very tempting to fight a war in this way, and though we can predict that the temptation will not often be resisted, the fact is that things could be done differently. The Gulf War could have taken the form of a land war with the limited objective of dislodging Iraqi forces from Kuwait, and with air support
playing a strictly subsidiary role. The traditional criteria of *jus in bello* can be observed, if not completely, at any rate more fully than is normally the case, or than was the case in this instance.

Finally, however, the fact remains that even if the war had been fought in that way, it would still have been a case of ‘killing the innocent’ in any natural sense of the word. It would still have been fought against Iraqi conscripts who could not be held personally responsible for the invasion of Kuwait. Almost all modern wars are likely to be like this. They are almost always bound to involve conscript armies. Even modern professional armies are likely to consist of volunteers who will have had little idea of what they might be volunteering for, and who are more likely to have joined up because of their need for a job than because of any real commitment to the political and military policies of their government. A war to prevent or reverse aggression, if fought against such an army, will not be fought against those who should be held responsible for the aggression.

The example of the Gulf War, then, though it lends some plausibility to the criteria employed by ‘just war’ theory, seems to me on balance to illustrate the inadequacy of the theory. It reminds us that the invasion of a country, even a country whose institutions are undemocratic and repressive, will more often than not be a great evil, which ought, if possible, to be rectified. It reminds us also, however, that war can rectify that evil only by killing those who are not responsible for it, and that analogies with ‘self-defence’ and ‘punishment’ fail to provide sufficient justification for this. It illustrates the moral plausibility of the ‘just war’ theory in criticising a war fought against innocent civilians, though that criticism becomes less incisive when the theory is joined with the doctrine of double effect. It illustrates also, however, the implausibility of any sharp distinction between innocent civilians and combatants who can legitimately be killed.

In the light of this example, can anything positive be retained from the ‘just war’ theory? What can be said, I think, is that if war can ever be justified at all, then the theory points to certain morally relevant distinctions which can be made between some wars and others. There is a pragmatic case for thinking that wars of resistance to aggression stand a better chance of being justifiable than any other kind of war. Although there is nothing sacrosanct about rights
of territorial integrity and political sovereignty, the fact is that invasions are rarely benign. Usually they will crush and exploit the people who are invaded, they will impose an authoritarian rule on them, and they will be likely to destroy the shared culture and the shared political life of the community. Even if an invasion is carried out with more benevolent intentions, it is unlikely to succeed. If it is an attempt to overthrow a tyrant, it will probably create a power vacuum which the invading forces will have to fill, since in the nature of the case no internal political forces have been strong enough to do so. In the end, therefore, such an attempt is more likely to obstruct than to promote the authentic political life of the community. Whereas wars of intervention, then, are extremely difficult to justify in any terms, wars of resistance to aggression may be, on pragmatic grounds, more plausible candidates for justification.

Similarly, the theory of *jus in bello* points to the fact that some ways of waging war are worse than others. Some forms of warfare are indiscriminate and totally dehumanising. Others may at least pay some minimal respect to the humanity of the enemy, if only by directing the war against those on the other side who are themselves doing the fighting. The principle of non-combatant immunity does, albeit imperfectly, reflect relevant moral distinctions, even if it cannot furnish the conception of moral responsibility which ‘just war’ theory needs.

*The theory, then, is not without its uses. It does not, however, succeed in its primary aim. It does not provide a way of rebutting the initial moral presumption against war in any form.*
Chapter 6 – The Imperatives and Limits of Avoidance of War

The Case Against War

My conclusions so far have mainly been negative ones. I have argued that the idea of ‘respect for life’, properly understood, sets up a very strong moral presumption against war. Since the waging of war almost invariably involves the deliberate taking of life on a massive scale, it will be immensely difficult to justify. I have argued that utilitarian justifications are not good enough. We cannot justify the taking of life simply by saying that the refusal to take life is likely to lead to worse consequences. An adequate notion of moral responsibility implies that other people’s responsibility for evil does not necessarily justify us in doing evil ourselves in order to prevent them. We cannot sacrifice some people for others and claim that we are justified by a utilitarian calculus of lives.

I have also argued, in the previous two chapters, that the ‘just war’ tradition does not furnish adequate grounds for justifying war. The failure both of utilitarian arguments and of ‘just war’ arguments seems to be pushing us in the direction of a pacifist conclusion, that participation in war can never be justified, but I do not think that we are yet in a position to endorse such a conclusion. Though we start from a strong moral presumption against the taking of life, in war or in any other context, that presumption is not an absolute prohibition against the taking of life in any conceivable circumstances. I have said that killing cannot be justified by a simple calculus of lives, which would sacrifice some lives to preserve more overall, but I do not see how one could rule out the possibility that one might, in extreme circumstances, have to kill in order to prevent some enormous disaster involving huge loss of life. The only logical basis for a strict absolutist position seems to me to be some kind of religious belief. I have said that how one sees one’s own moral responsibilities will depend on what one takes other people’s responsibilities to be. I am not necessarily responsible for all the consequences of my actions if other agents are responsible for some of them. Clearly then it must make a difference if one believes that those other agents include a divine being who in some sense bears the ultimate responsibility for everything which happens in the universe. One might then be in a position to say, ‘It is wrong for me ever to kill, whatever the consequences, and if the consequences of
my refusal to do so appear to be appalling, how things turn out in the end is in God’s hands, not mine’. I do not say that a religious believer has to take that position, but it is a possible position, and one which is not available to the non-believer. I am not certain that it can be made coherent even if the religious context is supplied; I find it difficult to see how one could decide where to draw the line between those consequences for which we must assume responsibility and those which can be left to God. This is, I suppose, part of the general problem of giving a coherent account of divine omnipotence. I am not capable of judging what conclusion one should come to here. Such a judgement would require a greater familiarity than I have with the intricacies of religious belief. Setting aside the religious option, then, if we cannot be absolutists about the prohibition on killing, I do not think we can as yet rule out the possibility that even the large-scale killing involved in war might be morally necessary in extreme circumstances. Without being simple consequentialists, we still have to look at the possible consequences of waging war or refusing to do so.

Even from this point of view, however, the case for war does not look good. What do wars achieve? To answer the question fully we should have to look in detail at the historical record, but one general fact stands out. The conclusion of any war typically tends to sow the seeds of a future war. As pacifists have always emphasised, violence breeds violence, and this is true not only at the level of relations between individuals, but also at the level of relations between nations. The settlement reached at the end of a war is, almost by definition, a coercive settlement, imposed by the victors on the vanquished. As such it creates resentments and fosters grievances which will in due course provide the pretext for another war, waged by the defeated to right the wrongs done to them. The classic example is the First World War, a war supposedly fought to end all wars. The war concluded with the Treaty of Versailles, which deprived Germany of territory and colonies, set strict limits to the future size of the German armed forces and imposed heavy economic reparations. The grievances thus created were nurtured by the Nazis and led directly to the even more destructive Second World War only 20 years later.

The Second World War itself may at first look like a more convincing example of a successful war. Recall A.J.P. Taylor’s judgement, which I quoted previously, that it was ‘fought to liberate peoples from Nazi, and to a lesser extent Japanese, tyranny’, and that it was ‘a war
justified in its aims and successful in accomplishing them'. It is true that the war did bring about the overthrow of state wide Nazism, albeit at an immense cost, involving millions of deaths and appalling suffering. We should remember, however, that the purpose for which Britain declared war on Germany was not the defeat of Nazism as a political system, and that most of those who fought against Germany did so in complete ignorance of the concentration camps and the other distinctive features of Nazism. The reason for Britain's declaration of war was the German invasion of Poland and Britain's treaty obligation to come to Poland's defence. Although the war aim soon came to be formulated as German unconditional surrender rather than the restoration of Poland's independence, this had more to do with the inexorable logic of warfare than with any longstanding commitment to oppose Nazism. Insofar as the original aim was to free Poland, it is debatable whether this aim was really achieved. The war left Poland with formal independence and with a Polish government, but one which was firmly under the control of the Soviet Union. The direct result of the war was in fact 45 years of Soviet repression in Eastern Europe, and the division of Europe into two military power blocs, posing the danger of an even more destructive war, a nuclear war which would have destroyed European civilisation and perhaps even eliminated the human race altogether. As far as I am aware, no one in 1939 foresaw such an outcome from the war. It is not surprising that wars often lead to results very different from those which they were intended to produce; a major war involves social upheaval on a huge scale, eluding effective human control, and its outcome is almost bound to be unpredictable. Also, Nazism is still growing and active in Germany, and elsewhere.

The other general point to bear in mind, in assessing what wars achieve, is that we have to take seriously the alternatives. Consider again Taylor's statement. Whatever its other consequences, the Second World War did liberate peoples from Nazi tyranny, and his judgement therefore has some plausibility if we assume that the only alternative to waging war was doing nothing. We should consider, however, whether Nazi tyranny could have been opposed in other ways, and whether the same results, or better, might have been achieved by means more morally acceptable than this immensely destructive war. The judgement may turn out differently.
What are the possible alternatives to war? There are various possibilities which come under the general heading of 'non-violent resistance'. In chapter 2, I suggested that the concept of 'violence' was too ill-defined to play a central role in moral arguments about the rights and wrongs of war. However, though 'violence' is unhelpful as a moral category, the phrase 'non-violent resistance' has acquired a fairly specific use to refer to the various kinds of non-cooperation with an occupying force or an oppressive regime. These include strikes, boycotts, sit-ins, demonstrations, non-violent sabotage (such as dismantling machines and equipment, or removing signposts to confuse an invading army), and disobedience to unjust laws (such as using facilities reserved for the dominant racial group in a racist society).

Though we may still have problems in determining what counts as 'non-violent' (is there a significant difference between blowing up an installation and dismantling it?), it is clear that we are talking about forms of non-military action, which do not involve deliberate killing or the deliberate infliction of physical injury. Some degree of success has been achieved by these methods both in internal campaigns for political changes (for example the civil rights movement in the United States, and in resistance to occupying powers). In some of the countries occupied by Germany in the Second World War, in particular Norway, Denmark and Holland, much of the resistance was of this non-violent kind, and was able to frustrate some of the aims of the occupying power. In Denmark, 95 per cent of the Jewish population was enabled to escape; in Norway, the most notable success was the defeat of the attempt to change the educational system along Nazi lines. Another notable example of non-violent resistance to invasion was the Czechoslovak response to the invasion by Soviet and other Warsaw Pact armies in 1968. This is a good example of what can and what cannot be achieved by non-violent resistance. There are obvious limits. People may sit down in front of tanks, as they did in Czechoslovakia, but a military advance cannot be halted non-violently if its commanders are sufficiently ruthless - if they are prepared to massacre those who obstruct them, for instance, as the Chinese authorities did in Tienanmen Square in 1989. More generally, a military occupation cannot as such be prevented non-violently. What we have to bear in mind, however, is that a military occupation is not an end in itself. It is always a means of achieving political objectives, the exercise of continuing control over the civilian

107 The most thorough discussion of the theory of non-violent resistance, with a full documentation of its varieties and with historical examples, can be found in Gene Sharp, *The Politics of Nonviolent Action* (Boston: P. Sargent,
population, the imposition of a certain kind of political regime, the acquisition of resources or whatever. These are the objectives which can sometimes, in the long term, be undermined by non-violent resistance. Opposition to the invasion of Czechoslovakia achieved an initial success, in the period of intensive resistance. The Soviets, who would have liked simply to remove the Czechoslovak government, were forced to do a deal with it. The deal was massively disadvantageous to the government (who accepted it partly because they themselves were unaware of the extent and success of popular resistance), and over subsequent months the Soviets gradually imposed their control, removed the reformers from office and installed a puppet regime. The initial resistance had, however, been of crucial importance in establishing the illegitimacy of the new regime. Having once been defied, the Soviet occupation and its servants could never be genuinely accepted. Over the years, in immensely difficult circumstances, the hopes of the reform movement were kept alive, by organisations like Charter 77, leading to the re-emergence of active resistance again in 1989 and the victory of the democratic revolution. The continuity of the resistance is symbolised by the fact that Alexander Dubcek, the leader removed by the Soviets, was in 1989 elected President of the new National Assembly. Of course the eventual success of democratic reform in Czechoslovakia would have been impossible without the coming to power of Gorbachev and the immense changes in the Soviet Union itself. However, the success of military resistance to occupation may likewise depend on political developments within the occupying country. What I want to stress is that though non-violent resistance cannot in the short term prevent a military invasion, it can in the long term, to some degree or other, deny it the fruits of political success. We cannot know what might eventually have been achieved by purely non-violent resistance to the Nazi occupation of Europe, but when considering the supposed success of the military overthrow of Nazism we have to bear in mind both the immense human cost of that military victory and the possibility of non-violent alternatives.

The other thing to remember, when comparing the efficacy of military resistance and non-violent resistance, is that historical examples of the latter have mostly been *ad hoc* and unplanned. Huge resources are devoted to preparations for military action, and those who execute it can draw on intensive training, detailed planning and lavishly provided equipment.

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1973). For a succinct survey, see ch. 7 of Alternative Defence Commission, *Defence Without the Bomb: the*
As Robert Holmes puts it, to compare the supposed successes of war with 'non-violence in its present embryonic form' would be:

...as though one had compared air travel with rail travel at the time of the Wright brothers and said, 'Look, we have only two pilots, no airports, and one plane that can fly a few hundred yards but we have thousands of miles of railroads and a nation accustomed to rail travel', and then argued on that basis against the development of the airplane.\textsuperscript{108}

We have to ask what non-violent resistance might achieve if it too were thoroughly prepared and resourced, if the population were trained in its techniques and the preparations, along with other supportive peace-promoting skills.

The various forms of non-violent resistance, then, are the alternative means by which people can combat the invasion or oppression of their society. And insofar as wars are also waged by third parties, seeking to protect societies other than their own from an aggressor or an oppressor, the alternative to war is likewise the various forms of economic and cultural sanctions which can be brought to bear. After the Iraqi invasion of Kuwait in 1990, for instance, sanctions were imposed in the form of a trade embargo, under the authority of the United Nations, in order to put pressure on the Iraqis to withdraw from Kuwait. The economic blockade put a stop to 90 per cent of Iraq's exports and imports. The country's economy was vitally dependent on oil exports, and sanctions were costing it about $85 million a day in lost oil revenues. Many people argued that this economic pressure offered a realistic chance of securing an Iraqi withdrawal without the need for military conflict. The United States and other governments claimed, however, that sanctions were not working quickly enough. Iraqi forces were imposing a reign of terror in Kuwait, and this, they said, could not be allowed to continue any longer. After five months of economic sanctions, therefore, the Allies turned to military means to eject the Iraqis from Kuwait. It is impossible to know whether continuing economic sanctions might have been successful. The Allies' argument was that the suffering of Kuwait had to be ended quickly. Their critics' argument was that sanctions were working but needed more time, and that the resort to war actually accelerated the killing and

destruction in Kuwait, culminating in the ransacking of Kuwait City and the firing of the oil wells by retreating Iraqi troops. In view of the high death toll in the war, it is at least possible that a continued reliance on economic sanctions might have achieved success at a lesser cost in death and destruction.\footnote{109} Here, then, was a clear example of the choice between the military solution and non-military sanctions, with the typical costs and uncertainties of both options.

Like non-violent resistance, sanctions are limited in what they can achieve. In assessing them as an alternative to war, however, we again have to bear in mind, first, that war also is limited in its ability to achieve the political ends that are its real purpose, and, secondly, that the proper comparison is between the efficacy of war and the efficacy that sanctions could have if they too were implemented wholeheartedly, prepared and coordinated and resourced in the way that war is waged.

We should also be clear about the moral status of sanctions. They are not nice. Like war, they are a coercive threat. They involve the deliberate infliction of suffering in order to pressure people into compliance. Like war, they also inflict suffering on people who are ‘innocent’ in the sense that they are not individually responsible for the actions which sanctions are intended to oppose. Typically, for instance, economic sanctions will deliberately create hardship and even starvation for ordinary people as a way of forcing their government to back down. For all that, however, there can be no denying that sanctions, if they work, are morally preferable to war. On any reckoning, they cause vastly less suffering and loss of life than war does. And though they are coercive, they leave the door open for negotiation and compromise at every stage, whereas war is much more likely to close off such possibilities.

With these points in mind, it is instructive to return to the example of the overthrow of Nazism as a result of the Second World War, and to compare it with a recent example of the

\footnote{109 It is a matter for debate whether the United States government was ever genuinely committed to making a success of sanctions. Jeff McMahan and Robert McKim, in “The Just War and the Gulf War”, \textit{Canadian Journal of Philosophy}, vol. 23, no. 4 (1993), argue that economic sanctions could have worked, that the availability of this alternative undermines the claim that the Gulf War was a just war, and that the Bush Administration opted for war rather than sanctions.}
use of sanctions, against the apartheid regime in South Africa. I do not want to equate apartheid with Nazism - the advocates of apartheid did not actually propose anything equivalent to the extermination of the Jews - but both are examples of social systems based on a racist ideology and supported by the apparatus of a police state. We can therefore usefully compare the methods of war and of sanctions as ways in which other countries have tried to combat such a system.

We should first reiterate the point that Britain and its allies did not in fact declare war on Germany in order to eliminate Nazism. When it is said, then, that the Second World War was successful in doing so, this looks suspiciously like an *ex post facto* justification. Since the war ended with the demise of Nazism, that is held to have been its objective, and the fact that the original objective was not fully achieved is conveniently forgotten.

The point is strengthened if we go on to note that, despite the opprobrium which apartheid almost universally incurred, nobody seriously proposed declaring war on South Africa in order to put an end to it. If a war to end Nazism is supposed to be a classic example of a just war, one would also suppose that a war to end apartheid would have some claim to be a just war. On the contrary, however, many people, and especially politicians, who purported to be strongly critical of apartheid, opposed even economic sanctions against South Africa. This again suggests that objectives such as ‘ending Nazism’ would not normally be thought of as good reasons for going to war - except after the event.

Suppose, however, that we do compare the efficacy of the war in ending Nazism and the efficacy of sanctions against apartheid. It has to be agreed that, at least for the time being, Nazism was decisively defeated, but at a huge cost. Millions of people were killed, more than half of them civilians, whole cities were destroyed as well as thousands of smaller towns and villages, national economies were devastated. The struggle against apartheid has of course not been without its costs. Many black South Africans have been killed or maimed by the police or the military, the African National Congress itself turned to armed struggle (a decision which I shall discuss shortly), and there has been tragic and destructive violence between different sections of the population, both black and white. Clearly, however, the deaths and
suffering caused specifically by sanctions were as nothing compared to the costs of the Second World War, yet sanctions were also undeniably effective. They were slow to work. Many governments were reluctant to participate, and the initiative came largely from popular campaigns rather than from governments. Nevertheless, sanctions played a decisive part in bringing about a dramatic change in South African policy, and the beginning of the end of apartheid. A particularly effective strategy was the severing of sporting links with South Africa. It can hardly be said to have created great suffering, but it was an effective form of moral pressure. If compared with the methods of war, in respect both of its moral acceptability and of its efficacy, it has a great deal to be said for it.

There is evidence that sanctions would (and did) play a decisive part in bringing about dramatic change in South African policy, and the beginning of the end of apartheid. Sanctions imposed by France and the United States in 1985 created substantial psychological pressure on South Africa to approach the United States for talks and abolish the Pass Laws respectively. Early analysis of the role of foreign investment and trade in the South African economy also indicated that sanctions would have a great impact on South Africa's policy makers (Johnstone & Richardson, 1986).

I still wish to emphasise, however, the limits I am claiming for non-military sanctions. They are never completely effective, and sometimes they do fail (as they did when deployed against the Italian invasion of Ethiopia in 1935).

Even if sanctions succeed, they are not morally unproblematic. What I am suggesting is that the possibility of economic and cultural sanctions, and of non-violent resistance, should affect our assessment of the efficacy of war. If we compare war with doing nothing, we may feel that despite the heavy moral price it exacts, it is at least effective. If we compare it with other, morally more acceptable ways of pursuing the same aims, the case for war is considerably weaker.

Japan began to experience a shortage of raw materials, especially in oil after World War 1, as her industrialization continued. Thus, the intensification of the oil embargo that America imposed on Japan in 1941 pushed Japan into desperation. Friedman and Lebord (1991, p77)
quoted the *Oriental Economist*, saying “Japan’s only method of survival would be to curry obsequiously to the favour of the United States. But no self-respecting race or nation can tolerate an existence of this kind”. There exist only two alternatives to choose from in order to survive, which was to become a vassal or go to war. Japan decided to go to war with the purpose of attaining self-sufficiency in industrial minerals by occupying those areas that could rapidly be utilised for production of these materials and secure the sea lanes for seizing these areas and transporting the raw materials to Japan (Friedman & Lebord, 1991, p77).

I want to re-emphasise also that the moral assessment of war should not be primarily a matter of utilitarian calculation. The primary case against war is that it is an overwhelming violation of respect for human life. Only when this has been acknowledged is it relevant to put the counter-claim that war is nevertheless effective. The counter-claim has to do a great deal of work. What has to be shown is not just that war is effective, but that it is an instrument so indispensable as to outweigh the strong moral presumption against it. What I have now been suggesting is that when we consider the availability of other more acceptable instruments of social action, the claim for war becomes unconvincing.

That, then, is my case against war. Though it cannot be simply deduced from the wrongness of killing, that is in the end the primary moral consideration. And the appeal here is not to some abstract principle, but to our deepest human responses, and to the shared understanding that those responses make possible. The moral rejection of war is often thought of as an abstruse stand taken by the morally fastidious. At the beginning of the first chapter I drew attention to the disparity between conventional moral views of war and the general recognition of the wrongness of taking life. I have now tried to show that the standard attempts to justify that disparity, with ideas of ‘just war’ and ‘self-defence’ and with appeals to consequences, are unsuccessful.

*We Have No Choice*

Many people would acknowledge the weight of these arguments, yet would still baulk at a pacifist conclusion. Attitudes to war often seem to be positively schizoid. ‘We know that wars are morally appalling’, a common view appears to be, ‘but we have to have them’. Sometimes
this is merely an expression of moral inertia, a failure of moral imagination, a refusal to think through the implications of our moral beliefs and to act on those implications. Such remarks may also, however, have a deeper significance. They may express a genuine sense of the irreconcilability of two sides of our moral thinking. I want now to explore what may be meant by those who, having acknowledged the moral case against war, go on to say ‘We have no choice but to fight’.

One of the attractions of the self-defence analogy is that it might seem to account for this idea of having no choice. In the case of literal individual self-defence, that phrase appears to be appropriate. If my life is threatened, and I can defend myself only by killing my attacker, then I have no choice but to kill him. Of course in a sense there is a choice; I can choose to kill the attacker or be killed by him. As philosophers such as Sartre have emphasised, in some sense there is always a choice, whenever we act. What can be said, however, is that it is not a real choice, because it is a forced choice. There are two aspects to this. First, it is a forced choice because the attacker is responsible for putting me in the situation where I can defend myself only by killing him. Secondly, I can avoid killing him only by sacrificing something of equal importance, my own life. It is the combination of these two features that, as I have argued, overrides the normally compelling moral presumption against taking another life.

I have also argued, however, that the purported analogy between war and individual self-defence does not work. When people fight for their country, they are not forced to kill in order to protect human lives - at least that is not the primary object - and it therefore cannot be in this sense that they have no choice. The possibility nevertheless remains that, at a more general level, some broadly comparable notion of ‘having no choice’ may apply to wars fought for social and political objectives. That is the possibility I want to consider.

I have referred already, for various purposes, to the example of the struggle against apartheid in South Africa, and I want to use that example again now. In 1961, the year after the massacre at Sharpeville, the African National Congress decided that it could no longer adhere to its longstanding policy of non-violence. It set up a new group, Umkhonto we Sizwe, to wage a campaign of armed struggle. After its first actions the group issued a statement which contained these words:
'The time comes in the life of any nation when there remain only two choices: submit or fight. That time has now come to South Africa. We shall not submit and we have no choice but to hit back by all means within our power in defence of our people, our future and our freedom. The Government has interpreted the peacefulness of the movement as weakness; the people's non-violent policies have been taken as a green light for Government violence. We are striking out along a new road for the liberation of the people of this country.'

As in the case of individual self-defence, the form of words used here acknowledges that in one sense there is a choice. There are two alternatives: submit or fight. What the statement goes on to imply, however, is that submission is not a real choice. Why not? It is of course perfectly possible, indeed it might in some ways be the easier and more comfortable option. To say that it is nevertheless not a real option is an inescapably moral assertion. Submission is morally impossible. It is not just morally worse than the alternative; it is morally unthinkable. To submit, it might be said, is something which one could not live with. To do so would be to abandon one's deepest moral convictions, those convictions which are a precondition for making any meaningful moral choices at all.

This may explain why submission can be described as not a real choice, but the further question remains: why should the Umkhonto manifesto assert that the only alternatives were to submit or fight? I have been arguing in this chapter that there are alternatives to military struggle. Non-violent resistance is a real possibility. The African National Congress was perfectly well aware of this. Prior to 1961 its campaigns had been self-consciously of this kind, modelled on the example of Gandhi's earlier campaigns with the Indian population in South Africa, and on the Indian independence movement. Why then should it now see that form of action as no longer an alternative, and assert that there was no choice but to fight, and why should other people who are the victims of invasion or oppression make similar assertions?

111 On the idea that some supposed alternatives might be morally 'unthinkable', see Bernard Williams, 'A Critique of Utilitarianism', in J. J. C. Smart and Bernard Williams, *Utilitarianism: For and Against* (Cambridge: Cambridge University Press, 1973), pp. 92-3. And for the related idea of what one can or cannot 'live with', see pp. 103-4.
At this point it is important to remember that the availability of different forms of resistance is a matter not just of abstract theoretical possibilities, but of *socially* available options. Political oppression is by definition a social phenomenon, and resistance to it likewise cannot exist except as a social phenomenon. A private individual may decide to disobey, to defy orders and perhaps to die for it, but this counts as resistance, as a challenge to oppression, only if it is publicly recognised as such and gets its meaning from a wider social movement, however informal. This means, however, that the availability of identifiable resistance depends on the existence of a tradition of struggle of the appropriate kind. Of course such a tradition has to start somewhere, and I am not denying that resistance can sometimes be improvised with no prior institutional structure to work from. The Norwegian campaign of non-violent resistance to the German occupation, for instance, developed spontaneously and there had been no pre-invasion plans for such a campaign. Nevertheless there may be situations where the only recognised form of resistance is military resistance, where alternative forms of struggle simply do not gain acceptance, and where it can therefore be said that ‘we have no choice but to fight’.

This was not the case in South Africa in 1961. As I have mentioned, the freedom movement had a vigorous history of non-violent resistance, involving strikes and various kinds of civil disobedience. The problem was the total suppression of all these activities. Now if the judgement to be made was one of effectiveness, that in the circumstances non-violence appeared not to be achieving anything, and that armed struggle offered a better chance of success, this would not, I think, be properly expressed by saying that ‘we have no choice’. Judgements of social effectiveness are always provisional; a movement which seems to be getting nowhere may triumph in the long run, and the temptation to look for a short cut may be attractive. What might be meant, however, is something along the following lines. Resistance has to be recognised as such not only by the resisters but also, at some level, by their opponents. Civil disobedience and other kinds of non-violent resistance are a statement, an assertion of the wrongness of existing institutions and practices. As such, they presuppose at least a minimal level of dialogue. The statement must be heard, it must be acknowledged as a statement even if it is rejected. If the authorities say, ‘You are wrong, your protest is misguided and inadmissible and we have to arrest you’, that is at least a recognition of the protest, and those who take part in the non-violent resistance, though they may feel frustrated
at the lack of success, can at any rate see themselves as genuinely resisting. But if they are simply crushed, ruthlessly and totally, if the authorities are prepared simply to massacre them without seeing any need to offer any self-justification, and if there is imposed a total censorship so that the would-be resisters cannot even communicate to their potential supporters what it is that they are doing, they may rightly feel that their actions cannot even serve as a statement of their opposition. There has ceased to exist a civil society within which rival political claims can be made, and in which disobedience can be civil disobedience. It may then be true that there is no alternative but to fight. It may be that only in that way can one force from one’s opponents a recognition of one’s existence as political resistance. It will of course always be a difficult judgement whether that point has been reached. Out of frustration at the slowness of progress it will sometimes be tempting to say that non-violent resistance has become impossible when in fact that is not so. It could be argued that it was not really so in South Africa in 1961, for non-violent resistance continued after that and was arguably more impressive than the armed struggle. Nevertheless, I am suggesting that we can, along these lines, make sense of the idea that in a particular social context the only available alternatives may be to submit or to fight, and that, submission being morally unthinkable, people can then intelligently say that they have no choice but to fight.

Having said that, however, we have to add that, by the same token, the pacifist can also say, ‘I have no choice’. That assertion, I have been suggesting, is essentially a moral assertion. In a sense one always has a choice, but the point of the assertion is that the only alternative course of action may be morally unthinkable. So, just as someone who turns to military resistance may say, ‘I have no choice’ because the only alternative is submission to an intolerable evil, the pacifist can likewise say, ‘I have no choice’ and mean that, however limited the alternatives, the resort to war and the deliberate wholesale destruction of human lives is morally unthinkable. In saying this the pacifist cannot be accused of incoherence. Even if the result of the refusal to resort to war would be that others would, unresisted, engage in widespread slaughter or some other terrible evil, still one’s view of one’s competing responsibilities in this situation will, as I have argued in chapter 3, be itself a judgement about competing values. Killing and letting die cannot simply be equated, and someone who refuses to endorse killing as a means of saving life is not necessarily inconsistent. ‘I have no choice’,
then, can as well express the overriding moral commitment of the pacifist as it can the moral commitment of someone who finds war inescapable.

**Moral Tragedy**

We appear to have reached moral deadlock. Confronted with the dilemma where war seems to be the only way of resisting an intolerable evil, we can apparently go either way, depending on which moral commitment we take to be of overriding importance. There seems to be no further scope for rational argument to determine which decision is right. This takes us back to the concerns of my first chapter. Does it not confirm that reason can play only a subordinate role in moral discourse, that all moral views are in the end inescapably subjective, and that, as Bertrand Russell suggested, our judgements about war are ultimately 'the outcome of feeling rather than of thought'?

I do not think that this follows. Admittedly in the present case we appear to have reached a position of deadlock, but it is important to see why this is so. We have arrived at an impasse because of the strength of the moral case on either side, and that strength is an *objective* strength. To resort to war is a terrible thing, and that assertion is not just an expression of subjective feeling, but a judgement rooted in our understanding of our shared human life. There appears to be situations where war is the only available means of resisting an intolerable evil, and that too is an objective judgement, not a mere expression of feeling. It is when these objective judgements clash that we appear to be faced with an irresolvable dilemma. In other situations, where they do not clash, assertions of the wrongness of war may be rationally and objectively grounded. Political leaders who, in search of popularity at home, cook up an excuse to attack a neighbouring community, and are prepared to squander the lives of their own citizens and of those on whom they make war, are wrong - objectively wrong. Political leaders who declare war on the basis of purely national interests are objectively wrong. Hitler and his supporters were wrong, all other similar warmongers and ruthless oppressors are wrong, and it is because of the objective strength of that judgement that the question of how to resist them is so problematic.
The dilemma, then, is of a special sort. It is an example of what we might call ‘moral tragedy': a situation where whatever one does, though one may feel morally compelled to do it, is also wrong. As Thomas Nagel puts it, ‘the world can present us with situations in which there is no honourable or moral course for man to take, no course free of guilt and responsibility for evil'. So here, there will be cases where the only way to resist aggression or oppression will be to engage in the wholesale destruction of human lives, but the refusal to fight and to kill will be a failure to resist intolerable evil. Hegel saw such irresolvable moral clashes as the very essence of tragedy, and as providing the theme for some of the great tragic dramas, especially those of the Greek tragedians: Aeschylus' *Oresteia*, for instance, where Orestes must avenge his father's murder but, to do so, must kill his own mother, so that, as he says, 'right conflicts with right'; or Sophocles' *Antigone*, where Antigone's loyalty to her brother and her duty to give him a proper burial requires her to defy her uncle Creon's edict and her loyalty to the city.

I have said that a subjectivist account cannot explain what makes such conflicts tragic. For the subjectivist they are, in the end, like all dilemmas, a matter of choice. Though the conflict may be acute it can always be resolved by an act of choice, and in choosing one is *ipso facto* committing oneself to regarding the chosen course as right and the alternative as wrong. Thus, Sartre's famous example of the young man who has to choose between staying to care for his mother or leaving to join the Resistance looks like an example of a tragic conflict, but when Sartre, in the spirit of his subjectivist ethics, advises the young man, 'You are free, therefore choose', he implies that once the choice is made there is no need for further agonising. Sartre does indeed recognise that choice is burdensome. In choosing, I have to assume full responsibility for all the implications of my choice, and it is 'bad faith' to try to make my choice easier by denying responsibility for its unwelcome consequences. For Sartre, however, responsibility does not imply guilt. By freely embracing my responsibilities I liberate myself

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from a sense of guilt, and it is then incoherent for me to retain a belief that I have nevertheless
done a terrible wrong. It is interesting that Sartre’s version of the Orestes legend, his play The
Flies, is a deliberate repudiation of the Aeschylean version; his Orestes, unlike the citizens of
Argos, refuses to be weighed down by a sense of guilt.\textsuperscript{115}

If a subjectivist ethics cannot account for moral tragedy, neither can a utilitarian ethics.
Utilitarians can recognise that we may encounter dilemmas where the alternatives are equally
balanced. From a utilitarian point of view, however, what this must mean is that the overall
utility, on balance, of one course of action is the same as the overall utility of the alternative.
When we weigh up the likely happiness and suffering which will result, there is no advantage
to be gained either way. In a sense, then, this is a situation where you cannot win, but also one
where you cannot lose. The utilitarian has no need to see it as a situation of moral tragedy, but
only of moral indifference. This is because for utilitarianism there are no incommensurable
moral demands. Everything can be weighed on the same scale of happiness and suffering, and
there is no room for the idea that in doing what I have to do I may violate another, distinct
value. The fact is, however, that in endorsing war to resist oppression I am endorsing the
destruction of human lives, and because this cannot be cancelled by any positive achievement,
it is therefore inexpiable.

A further relevant feature of utilitarianism, as well as its failure to recognise the diversity of
values, is its failure to recognise the diversity of our responsibilities. As I suggested in chapter
3, utilitarianism works with an undifferentiated notion of moral responsibility, as simply a
general obligation to benefit everyone who might be affected by one’s actions. In fact,
however, our moral responsibilities arise out of our various relations with others, and these
include not only the relations that we have to human beings in general, and indeed to all living
things, but also relations to specific groups and individuals. If, then, out of loyalty to our
community or in pursuit of the liberation of our fellows, we kill or endorse killing in war, we
are inescapably sacrificing some people for others. The relevant upshot is not just a net gain or
net loss for the universe or for humanity in the abstract, but an irreconcilable clash between

\textsuperscript{114} Jean-Paul Sartre, \textit{Existentialism and Humanism} (London: Methuen, 1952).
\textsuperscript{115} Jean-Paul Sartre, “The Flies”, in Altona; Men Without Shadows; The Flies (Harmondsworth: Penguin in

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two different sets of moral responsibilities. Again, those who are sacrificed cannot be compensated by the gain to others, and our guilt in relation to them is in this sense inexpressible. As Hegel concluded, tragic conflicts arise because we are each located within a number of different social groups and institutions and these sometimes make incompatible moral demands on us.

Are we then helpless in the face of moral tragedy? The conflicts may be irresolvable but, as Sartre says, we do have to choose. Indeed, non choice is in fact a choice. This is the difference between theoretical and practical conflicts. We can live with irreconcilable conflicts as we do with, say, competing scientific theories. Though the position may be an uncomfortable one, we can say, for instance, that the wave theory of light and the particle theory both capture certain aspects of the properties of light. If, however, we recognise the force of saying that war is the only option and that it is also morally unthinkable, we cannot leave the matter there. We have to decide whether or not to support the waging of war, and to do nothing is itself a choice. How we choose will therefore depend ultimately on our sense of the relative importance of different moral values and responsibilities. We have to decide what matters most. This, as I have said, cannot be done by measuring the alternatives on a single scale of values. It can be done only by trying to put together a coherent overall picture of human life and experience, within which we can understand the dependence of some items on others and within which some things come into focus and others recede into the background. Thus, we have to prioritise. So we may say, ‘In the end what matters is the existence of individual human lives, each one different and each one irreplaceable’. Or we may, perhaps, say, ‘In the end what matters is our loyalty to the wider community which links us to the past and the future; we die, but the community continues, and without it our finite individual lives would lack any purpose or meaning’.

Almost inevitably, different people will come to different conclusions. Nevertheless our conclusions can be the outcome of thought and deliberation. This will not, for the most part, take the form of logical inference; there is no set of premises from which one can logically deduce conclusions about the relative importance of different values. Rather, argument and deliberation here will consist in reminding ourselves and one another of this or that feature of our experience, drawing attention to the persistence of certain facts, noticing or pointing out
how things fit into a certain pattern, and so on. This may sound like an incredibly vague and sloppy way of proceeding, but in fact a great deal of our thinking takes this form and very little of it actually consists in linear inferences. Take the case of our characterisations of people. ‘Is he a good friend?’ ‘Well, he’s rather dull, but he’s always reliable, he never lets you down, and in an undemonstrative way he is very sensitive to people’s moods and feelings and he knows just how to respond to them. Did you notice how, the other day...’. Or ‘Should we appoint her to the job?’ ‘She’s likely to be erratic, and she will put people’s backs up, but she will bring plenty of energy to the job, and that’s what we need’. ‘Is she really all that dynamic? I suspect that it’s mostly talk, and that she doesn’t really get things done. Look at her record...’ Or take the case of comparing works of art or literature. ‘Dickens’ novels are wonderfully entertaining, but in the end they lack the moral seriousness of, say, Conrad’. ‘But what does Conrad’s moral seriousness really amount to? It is a superficial impression created by authorial intrusions which sound metaphysically profound, but are not adequately brought to life by the substance of the novels. Whereas, in *Dombey and Son*, for example, a moral critique of a whole society is conveyed, not by explicit pronouncements but through the characters and their inter-relationships. Look at the way in which...’ There are no logical arguments by which it can be demonstrated that he is a good friend, that she is dynamic, or that Dickens’ novels have greater moral seriousness than Conrad’s. Nevertheless, we can fruitfully argue and deliberate about such matters by drawing attention to features of our experience of them, and by proposing ways in which they can be fitted into an overall pattern. If no final agreement is reached, this is not because the judgements are inherently subjective, but because the issues are extremely complex, because they involve the application of multiple criteria, and because the application of those criteria cannot be exact. Hence no conclusions can be definitive. There is always more to be said, there will always be new emphases to be proposed and new ways of looking at the facts. So also arguments about the permissibility of war will, in the end, appeal to conflicting conceptions of the relative centrality, within human experience, of respect for other lives, of loyalties to communities or of commitment to a self-respect which may have to be fought for. There is always room for further argument, always more to be said about the role of these things in our lives, and if the argument is interminable this does not make it pointless.
There is a sense in which the conclusion anyone comes to will always be a personal judgement. It is significant that pacifists often speak of their position as a personal commitment, though it is not always clear in what sense this is meant. Any such judgement will necessarily be made in the light of one's own experience. Consider again the incident in *All Quiet on the Western Front*.\(^{116}\) Paul’s experience in the shell-hole with the dying Frenchman, whom he has killed, brings home to him the uniqueness and irreplaceability of each human life, and his own responsibility for the life he has taken. When he says to the dying Frenchman, ‘Now, for the first time, I see you are a man like me’, he is acknowledging that his experience has put things into perspective for him, and has made him aware of the importance of something which, at one level, he knew already. Others, looking at the world from the standpoint of a different personal history and set of experiences, might see things differently.

Though in this sense such a judgement is personal, this does not make it subjective. What Paul is rightly made to say in the novel is not ‘Now I feel differently about it’ or ‘Now I want something different’, but ‘Now I see’. What he sees, anyone could see, for though his way of seeing things is the product of his experience, that experience is communicable. The example I am discussing is, of course, not the experience of an actual individual, but an example from a novel, and it is precisely the function of imaginative literature to make available shared experiences. What imaginative literature does is not just to convey experiences in an anecdotal way, but to *shape* experience.

Through the process of selecting and describing, giving prominence to this and pointing up that, it provides a pattern by which we can make sense of our own experience. Literary form is always also at the same time a possible form of life. And this shaping of experience is what I have said moral thought consists of, when we are concerned to judge the importance of our different values. Without having had direct experience of war, we can read and respond to the literature of war, we can relate it to things which we ourselves have experienced, such as our attachments to others and our grief at their deaths, and in that way we can come to recognise and perhaps to share the perspective of the writer.

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\(^{116}\) See above, p. 180.
A shared literary culture is, then, an essential precondition of moral thought, providing shared ways of making sense of our experience. Another precondition is a shared history. Past wars are reference points against which we can compare new cases, looking for similarities and differences. Thus, confronted with the Iraqi invasion of Kuwait, many people compared Saddam Hussein to Hitler, with the implication that it was necessary to stand up to a ruthless aggressor. Assimilating the new with the old in this way, we are better able to respond to it without having to think about it. The comparison could, however, be contested, and others said that the build-up of armed forces in the Gulf was more like the prelude to the First World War, a process with an inexorable momentum which made it impossible for either side to back down. Much the same happened with the argument about nuclear armament and disarmament. Some said that nuclear disarmament would be ‘appeasement’, others characterised the continuing acquisition of nuclear weapons as an ‘arms race’, with the implication that it was carrying us into even greater peril. The role of the appeal to precedents in these moral arguments is rather like the role of precedents in case law. In both, the judgement of new cases is made by appealing to past particulars - ‘Isn’t this case like that one?’ - rather than by appealing to general principles that can be applied to the particular case in order to yield a conclusion. The difference is that in case law the judgements of past cases are authoritative, and what is up for discussion is the degree of similarity and difference between the new case and the old, whereas the historical precedents that are appealed to in moral argument are themselves contentious. There will be conflicting versions of the shared history. The history of past wars, for instance, may be seen as anything from a tradition of glorious exploits to a record of imperialistic oppression or a story of futile and self-perpetuating waste. Nevertheless, despite the variety of interpretations, the common history provides a set of common reference points to which arguments can appeal. Like a shared literary culture, a shared history makes available a common stock of experience that can be shaped in different ways, furnishing patterns with which we can then try to make sense of new cases, and giving us an overall view of priorities among our values.

Let me try to sum up the role that reason can play in resolving our moral dilemmas about war. We can, as I have done in previous chapters, try to clarify our fundamental values, showing how they are rooted in our experience and in our natural human responses. I have attempted to
do this particularly with the idea of respect for life, suggesting that it is central to a great part of our moral thinking and that it generates a strong moral presumption against war. We can examine the standard justifications for war which purport to rebut that presumption, and I have tried to show in chapters 4 and 5 and the first section of this chapter that the commonest of these are incoherent or unconvincing. There is then a strong, rationally grounded case against war, but I cannot show it to be conclusive. There remain situations where some will plausibly say that there is no choice but to fight, since the only alternative is to submit and that is morally unthinkable. Since the pacifist can equally say that the wholesale slaughter which war involves is morally unthinkable, we are faced with a tragic conflict of values. The conflict is irresolvable in the sense that neither side can be convicted of error, but I have tried to show that the resources of reason are not necessarily exhausted at this point. We have to seek some overall perspective which gives priority to some values over others, and which matches and makes sense of our experience. The position which each of us reaches will in a sense be a personal one, but it can also be objective in the sense that, drawing on the resources of a shared literary culture and a shared history, it invites endorsement from others as a judgement of the proper importance of particular features of our lives.

*The Practical Avoidance of Tragic Conflict*

There remains another respect in which the fact of moral tragedy does not leave us helpless. The existence of recalcitrant moral disagreement is itself a moral problem with which we can try to grapple, and to which we can seek a rational response. The apparent impossibility of resolving the conflict at one level can be the occasion for shifting the argument to a new level, where we can try to find ways of living with our moral differences. This means especially looking for some kind of political accommodation. Pacifists and those who think that war is sometimes unavoidable have to live together in a society that will have to follow some policy or other with respect to the possibility of war. The society as a whole has to decide whether or not it wants to engage in military preparations and, if it does, what form they should take. Its decisions cannot be morally acceptable to everyone, but they can try to take some account of the strength of different moral positions.
The suggestion that we should look for some kind of accommodation between conflicting positions may look like a moral platitude, but in fact it runs counter to some influential philosophical views of the nature of moral conflict. I have already referred to those moral philosophies (especially monistic theories such as utilitarianism) that fail to acknowledge the existence of tragic conflicts between different moral demands. At the other extreme, however, are moral philosophies that see tragic conflict as an almost endemic feature of moral argument and disagreement. I have in mind here those who say that standards of rational moral argument are *internal* to a ‘practice’ or ‘tradition’, and that there is a multiplicity of such ‘practices’; therefore there can be rational argument *within* a practice, but when different practices make conflicting demands there can be no rational way of adjudicating between them. Moral practices are sometimes compared to games, insofar as the latter have internal standards determining what constitutes correct or incorrect behaviour. For anyone participating in the game, the rules of the game have a rationally binding force, since they serve to define the game as a practice. It is laid down by the rules of soccer, for instance, that one is not allowed to handle the ball, and one cannot play soccer without being bound by that rule. Unlike games, however, moral practices can come into conflict with one another and there is then no independent rational standard, outside the conflicting practices, to which one can appeal in order to resolve the conflict.

D. Z. Phillips and H. O. Mounce offer the example of promise-keeping as a moral practice:

> ...within the practice of promise keeping, one has a reason for saying that a man ought to perform an action if he has undertaken to do so; within that practice this is what constitutes a reason for such a judgement...It is only from within such a practice that one can speak at all of making a moral judgement or decision.\(^{117}\)

As an example of a ‘practice’, promising is a very specific form of activity, but Phillips and Mounce also talk in a similar way about much broader and more general ways of life. The moral disagreement between a pacifist and a militarist is said to be a relevant example, and another which is offered is that of a disagreement about birth control between a scientific rationalist and a Catholic housewife. These broader ways of life they tend to speak of as
‘traditions’ rather than ‘practices’, but the logical point seems to be the same, that standards of moral judgement are internal to practices and traditions, and that there is no external standpoint from which to adjudicate the conflicts between them. In particular, discussing the ‘birth control’ example, Phillips and Mounce reject the idea that there are any independent facts of ‘human good and harm’ which could settle the disagreement between the conflicting moral positions:

...what they differ over is precisely the question of what constitutes human good and harm. The same is true of all fundamental moral disagreements, for example, the disagreement between a pacifist and a militarist. The argument is unlikely to proceed very far before deadlock is reached...The arguments are rooted in different moral traditions within which there are rules for what can and what cannot be said (p. 59).

It is this diversity of incompatible practices or traditions which is said by Phillips and Mounce to explain the occurrence of ‘moral tragedies’ (p. 94).

A more complex version of this philosophical position can be found in the work of Alasdair MacIntyre.\textsuperscript{118} He gives it a historical dimension. He distinguishes between the diversity of moral conceptions characteristic of the pre-modern era, and the complete fragmentation of moral discourse characteristic of the liberal individualism of ‘modernity’. Along with this goes a distinction between ‘practices’ and ‘traditions’. In the ancient world there was a diversity of ‘practices’ involving different conceptions of the moral virtues, but these were located within a shared moral tradition. There were conflicts, for instance, between the heroic ideal exemplified in the Homeric poems and the alternative conceptions of the virtues more appropriate to the civic life of the polis. But the Greek dramatists were able to present these moral conflicts as tragic because they saw them as located within an objective moral order. For Sophocles, in particular, the moral order is not harmonious, it contains incoherences and therefore presents us with rival and incompatible claims, ‘but our situation is tragic in that we have to recognise the authority of both claims’ (p. 134). By contrast, in the modern world the tradition has fragmented completely, so that we are faced not with tragic conflicts, but with a

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mere multiplicity of incommensurable moral ideas between which we can make only arbitrary choices. MacIntyre explicitly mentions the debate about the justification of war as an example of a moral disagreement which in his view is apparently interminable (p. 6). The pacifist, the advocate of military deterrence to prevent aggression, and the advocate of wars of liberation on the part of oppressed groups, all invoke conceptually incommensurable values, and ‘the rival premises are such that we possess no rational way of weighting the claims of one as against another’ (p. 8).

Common to the theories of Phillips and Mounce and of MacIntyre is the idea that the only criteria for rational moral argument are internal to particular moral traditions. Consequently, when these come into conflict with one another, not only are there no independent criteria for deciding between them; it is not even possible for the disputants to acknowledge the rational force of rival positions. This might in a sense be possible insofar as one individual is the inheritor of a number of different moral traditions, but even then, strictly speaking, all that can be said is that one may oscillate between applying different standards of rationality, as one locates oneself first in one tradition and then in another. There is no overall point of view from which the rational force of rival positions can be acknowledged. It must follow that there are strict limits to the possibility of seeking an accommodation between conflicting moral positions, whether about war or about anything else. Admittedly there could be practical reasons for attempting to achieve a compromise that would enable the disputing parties to live and let live. But, according to the philosophical theory we are considering, any reasons for seeking a compromise will themselves be reasons internal to another moral tradition, presumably the liberal tradition with its emphasis on the value of tolerance. What cannot provide the basis for such an accommodation, according to this theory, is any recognition on the part of the disputants that their opponents have a rational case to make.

The strength of this philosophical theory is that it emphasises the diversity of moral concepts and values, and hence the recalcitrance of tragic conflicts. At the same time it does not, as Bertrand Russell’s subjectivism would do, treat these diverse moral positions as resting simply on non-rational personal feelings; it properly emphasises that there can be rational standards of moral argument, rooted in a shared moral vocabulary. Where it goes wrong is in supposing that different moral vocabularies and moral traditions are sharply demarcated,
separated from one another by clear boundaries. It fails to recognise that these different vocabularies and traditions all derive from common human experience, and are therefore, in some sense, accessible to anyone.

In his thumbnail sketch of arguments about war, for instance, MacIntyre attributes to the pacifist the argument that ‘in a modern war...no practically applicable distinction between combatants and noncombatants can be made. Therefore no modern war can be a just war...’ (p. 6). Against this he sets the argument for strong defence: that ‘the only way to achieve peace is to deter potential aggressors...Otherwise you will not avoid war and you will be defeated’ (ibid.). The first argument, he says, starts from ‘premises which invoke justice and innocence’, and these are at odds with the premises of the second argument ‘which invokes success and survival’ (p. 8). This is true as far as it goes, but it is an over-simplified picture of how the argument proceeds. The advocates of strong defence cannot (and do not) simply ignore the questions of justice and innocence. As we have seen, they will typically argue (unsuccessfully, I have suggested) that defence against aggression is just. As far as ‘innocence’ goes, either they will have to redefine the concept of ‘innocence’ in war (again unsuccessfully, I have argued), or they will have to acknowledge that although war involves killing the innocent that we sometimes have no choice but to do this. They will thereby be acknowledging the heavy moral burden which is carried in the waging of war. Likewise the concepts of ‘success’ and ‘survival’ which MacIntyre says are invoked by the second argument are not the prerogative of any particular moral tradition. How we are to understand them is itself a matter for rational discussion. As we have seen, arguments about war are likely to revolve around the importance of the survival of certain kinds of social structures. Again, pacifists cannot simply ignore the importance of this, and they may therefore have to acknowledge that a refusal to fight may mean accepting the sacrifice of something valuable. So the pacifist and the advocate of strong defence, while not denying their differences, can both recognise the desirability of searching for ways of protecting or creating a ‘good’ society without resort to war. And those of us who are trying to assess the arguments can recognise the rational strengths of the conflicting positions and can properly look for practical policies which take account of them.
MacIntyre is probably right to maintain that pluralism is a dominant feature of our modern moral culture. It does not follow, however, that this represents a 'state of grave disorder' (p. 2), a destructive fragmentation of moral discourse that condemns moral disagreements to be pointlessly interminable and leaves us with no rational resources for dealing with moral conflict. It may be that the extent of moral disagreement is the sign of a more open and democratic moral culture. Though it may represent, in a sense, the breakdown of a received moral tradition, this may be because a dominant tradition can no longer be imposed by religious or secular authority. On the issue of war and peace, in particular, there may be more disagreement because people are freer to criticise their country's wars without fear of persecution or imprisonment. Such disputes may then appear interminable, but this may be a healthy development, indicating not that rational discussion has become impossible, but that it is being engaged in more freely than before. It need not imply that the advocates of opposed positions can have nothing to say to one another and no means of arriving at some form of rational accommodation.

I suggest then that the search for practical ways of living with our moral differences is one which we can profitably pursue. Recognising the rational case to be made for opposed moral positions, we can try to formulate political policies which might be, at least to some degree, acceptable to the holders of those different positions.

The policies to be adopted may not be a kind of moral compromise; they can also be aimed at making it less likely that the irresolvable dilemmas will present themselves. If our social circumstances are such as to present us with tragic moral conflicts, we can try to change the circumstances so that such conflicts do not arise. I have mentioned that the idea of conflict between right and wrong is to be found in the ancient Greek tragedians. They recognise that such conflicts are to some extent eradicable features of the human condition, but they also recognise (as does Hegel) that tragic conflicts are sometimes the expression of social contradictions which can be transcended. Aeschylus' Oresteia ends with the establishment of a new legal court that will replace the tradition of vengeance and vendetta and prevent the kind of irresolvable conflict with which Orestes was faced. Likewise, if we live in a world in which people can sometimes see no alternative but to resort to war, we can try to build up the
alternatives so that in the future people are less liable to be confronted with the stark choice to submit or to fight.

How is this to be done? For reasons which I hope are by now apparent, I cannot claim to offer any simple general answer to the question ‘What are we to do about war?’ I do, however, want to consider certain practical policies which could constitute a rational response to the moral conflict. These are, first and foremost, policies for governments, but they are also possibilities which we can all consider insofar as we are in any position to try to influence the policies of our governments. We start from a situation where military defence is the recognised form of defence, where military institutions are firmly entrenched in a dominant position within our societies and where huge amounts of resources are devoted to preparations for war. There is no way in which these institutions can be simply wished away, but also no way in which they can be reconciled with the moral case against war. The question is, then: are there feasible policies which could offer a more morally acceptable alternative - which would recognise the strength of the pacifist case, would draw on the positive insights which I have tried to retain from ‘just war’ theory, would do justice to many people’s sense that there are situations where we have no choice but to resort to war, and might also make it less likely that such situations would continue to arise?

**Pacifism**

The position I want to consider is one which could be labeled ‘pacifistic’ rather than ‘pacifist’. I take the term, and the distinction, from Martin Ceadel’s very helpful classification of theories of war and peace.\textsuperscript{119} Ceadel identifies five broad positions, which he defines as follows:

(a) militarism: ‘the view that war is necessary to human development and therefore a positive good’.

(b) crusading: ‘a willingness under favourable circumstances to use aggressive war to promote either order or justice’.

(c) defencism: ‘this theory accepts that aggression is always wrong, but insists both that defence is always right and that the maintenance of strong defences offers the best chance of preventing war’.

(d) pacifism: ‘war can be not only prevented but in time also abolished by reforms which will bring justice in domestic politics too...Pacific-ism rules out all aggressive wars and even some defensive ones (those which would hinder the political reform for which it is working), but accepts the need for military force to defend its political achievements against aggression’.

(e) pacifism: ‘the absolutist theory that participation in and support for war is always impermissible’.

Defencism is, as Ceadel says, the dominant war-and-peace theory in the modern world. As a theoretical position it is open to the criticisms which I have directed against the first part of the ‘just war’ theory in chapter 4. My criticisms tended in the direction of pacifism, but since I have stopped short of a simple endorsement of pacifism, I have to address the question whether there is a coherent intermediate position, between defencism and pacifism. Ceadel’s definitions reveal the difficulty. Defencism and pacifism are both concerned primarily with the question of whether wars can be justified, here and now. They offer relatively straightforward criteria for deciding whether or not to fight. Pacificism, by contrast, is future-oriented rather than present-oriented. It asserts that war will eventually be avoidable, but leaves it unclear how, in the meantime, we are to decide whether or not to support particular wars. The aspirations for the future are supposed, in some way, to furnish criteria for present decisions: ‘Pacificists insist that even a defensive cause is just only if it is not also ‘reactionary’, in the sense of making it harder to achieve those political reforms on which it ultimately pins its hopes of lasting peace’ (Ceadel p. 74). Clearly, this is rather vague. No doubt it can be made more precise in the light of the particular recipes for political change which the different schools of pacifism have offered as routes to the abolition of war. So, for
instance, it may be said that defensive wars are not to be supported if they are in defence of colonial territory, or of ‘autocratic’ or ‘imperialist’ or ‘capitalist’ regimes. The fact is, however, that historically pacifism has too often failed to provide clear guidance in the face of particular dilemmas. An example is the debacle of 1914, when the left-wing parties of Europe, which were all in theory ‘anti-war’ and claimed to be able to point the way to a future without war, mostly fell into line behind their belligerent governments. In this way, for lack of clear criteria, pacifism is in danger of collapsing into defencism or even crusading. Alternatively, pacifism may sometimes appear indistinguishable from a disingenuous pacifism which dare not speak its name. One might get the impression that the position of the peace movement (of which I count myself a member) is, ‘Wars can sometimes be justified, but not this one’, where ‘this one’ means whatever war one’s own government happens to be waging at the moment.

A related problem for pacifism is that it runs the risk of appearing naively utopian. As Ceadel explains, the different varieties of pacifism have typically taken their cue from standard positions in domestic politics. Ceadel lists these as liberalism, radicalism, socialism, feminism and ecologism. The danger is then of positing an implausibly sharp contrast between a world where militarism is now rampant and a world ‘after the revolution’ when all will be sweetness and light. This problem is connected to the previous one because, to the extent that pacifism postpones its solution until ‘after the revolution’, it has nothing to say to the dilemmas which arise in the meantime.

I do not know whether the eventual abolition of war will ever be possible. It may be that, in centuries to come, people will look back on institutionalised warfare as an outmoded barbarity, in much the same light in which we now regard, say, the slave trade. However, a pacifism which is to have anything to say to our present condition cannot only pin its hopes on a remote future. It will have to address the question of what can be done, in the world that we know, to deal with the violence of aggressors and oppressive regimes now. Its proposals will have to be both morally acceptable in their own right and at the same time a route towards decreasing reliance on the methods of war. One thing which pacifists can obviously do is to advocate the use of non-violent pressures such as economic sanctions, and the methods of diplomacy and negotiations, as well as public education, even if these appear to be less
effective than a military response to the immediate threat. I have mentioned previously the example of the Falklands War (see p140 paragraph 3). By resorting to war when negotiations still offered some prospect of success, the British government reinforced the prevailing view that the only way to deal with aggressors is to fight them. Conversely a negotiated solution, even if it had not been ideal, would have served as a valuable precedent, as well as being in itself morally much more acceptable. Likewise, if sanctions had been persisted with, and had successfully ended the Iraqi occupation of Kuwait, this would not only have saved countless lives, but would also have encouraged the employment of similar methods in future situations of the same kind. If economic sanctions were to be maintained and measures devised to bring down the Saddam Hussein regime, this might have successfully ended the Iraqi occupation of Kuwait (Clawson, 1993; Kubba, 1994). There are, however, difficult judgements to be made here, for the argument cuts both ways. If sanctions or negotiations are only partially successful, and if a refusal to resort to war leaves no alternative but to make significant concessions to the aggressor, this may encourage future acts of aggression. As Ceadel points out, this is the criticism which defencists can make of pacifism: ‘the pacifist who argues that in certain circumstances States should not defend themselves...appears to be encouraging their adversaries to start a crusade...A retort which defencism can thus use against its moralistic critics is that it is the theory which most consistently disapproves of aggression’ (p. 75).

Pacificists, therefore, since they do not rule out the use of military force, have to think seriously about when military defence is acceptable, and what form it should take. The starting point has to be the acknowledgment, in agreement with defencism, that the defence of the autonomy of the ‘good’ within a political community is the cause for which the use of military force is most likely to be justifiable. I argued in chapter 4 that there is nothing sacrosanct about the territorial borders of nation-states, and that there is no difference in principle between justifying military resistance to an oppressive internal regime and justifying military resistance to external aggression. However, I also recognised that, in practice, the invasion of a community will nearly always create a more oppressive rule, and it is therefore a reasonable presumption that invasions need somehow to be resisted. The other empirical fact which has to be acknowledged is that defence against aggression is the purpose for which the use of military force is most firmly entrenched. There are established forms of non-violent
resistance to oppressive regimes, but there is only a limited experience of non-violent resistance to invasion, and the institutional provision for it is minimal, in contrast to the massive institutional presence of military defence. Therefore, people are much more likely to find themselves with 'no alternative but to fight' when it is external aggression that has to be resisted. In discussing the idea of 'having no choice' I considered cases, like that of South Africa, where people might respond in this way to internal oppression, if they feel that military resistance is the only way in which their rejection of that oppression can be socially expressed and recognised. But if external aggression is likely to lead to internal oppression, then why, one might ask, wait until the oppressive regime is installed in power before resisting it? If the invaders are at the borders, intent on subjugating the country, imposing their power and crushing all opposition, is this not the clearest case where people may feel that they have no choice but to fight? If all this is acknowledged, how should the pacifist position then differ from defencism? What sort of defence policy should pacifists advocate? It has to be one which brings together, again, the answers to the two questions: what kinds of military defence are, in themselves, morally least objectionable? And what kind of defence policy might, for the future, lead to a decreasing reliance on military force?

**Conclusion: Defensive Deterrence**

The approach I want to consider is that advocated by the so-called 'alternative defence' movement.\(^{120}\) The central idea is that of 'defensive deterrence'. This means that defence preparations are geared to repelling an invasion. The intention is that potential aggressors should be deterred by the awareness that, though they may perhaps possess the military capacity eventually to overcome such a defence, success would be so costly as to be not worth it. 'Defensive deterrence' is therefore *strictly* defensive, in contrast to other so-called defence policies which envisage more than just the ability to repel an invasion. In particular, it is to be contrasted with 'retaliatory deterrence', where the intention is that potential aggressors will be deterred by the threat of counter-attack. Though 'retaliatory deterrence' may be defensive in the sense that its aim is to prevent invasion rather than to launch an aggressive war, the

\(^{120}\) The most detailed set of proposals are to be found in the work of the Alternative Defence Commission. This was set up by the Lansbury House Trust Fund, and its first report was published under the title *Defence Without the Bomb* (London: Taylor and Francis, 1983).
reliance on the threat of counter-attack means that it must incorporate the capability for offensive military operations such as attacks on the enemy's forces, military installations and perhaps even cities and industrial sites. 'Defensive deterrence' will thus require an emphasis on different kinds of weapons from 'retaliatory deterrence': anti-tank missiles rather than tanks, surface-to-air missiles and fighter aircraft rather than bombers and strike aircraft, light coastal patrol vessels and minesweepers and submarines rather than aircraft carriers. As we shall see in a moment, there is not a sharp division between defence and offence, and likewise the distinction between defensive and offensive weaponry is not a division between watertight compartments. Anti-tank missiles, for instance, could be used in an assault on an enemy position. Nevertheless the overall mix of weaponry will signal a tendency towards a strictly defensive or retaliatory strategy.

The idea of deterrence has come to be associated especially with nuclear deterrence. People talk of nuclear weapons as 'the deterrent'. In the light of my discussion of 'non-combatant immunity' and the wrongness of indiscriminate killing, nuclear deterrence seems to me to be unacceptable. However, there is not necessarily anything wrong with the idea of deterrence as such. Any particular form of deterrence will be acceptable if (a) what you threaten to do is something which it would be morally permissible actually to do, and (b) the system of deterrence does not itself help to create precisely the danger it is supposed to prevent. Nuclear deterrence fails on both counts. It depends on the threat indiscriminately to slaughter millions of people. If we could be certain that such a threat would never have to be carried out, the making of the threat could perhaps be morally justified. Since, however, there is no such certainty, and since the carrying out of the threat would be just about the most appalling action it is possible to imagine, nuclear deterrence is morally unacceptable. As to the second point, it can be argued that a system of mutual deterrence actually contributes to creating the danger of nuclear war. It gives rise to a nuclear arms race. The various nuclear powers strive to keep up with one another in introducing new weapons, thereby promoting suspicion and mistrust in one another, and this self-perpetuating process may well increase the possibility that a nuclear war will actually be started either by miscalculation or accident.

How does defensive deterrence fare on these two counts? I shall take the second point first. I think it can convincingly be claimed that a policy of defensive deterrence would make war
less likely. At one level this would be true also of defencism in the broader sense. If all States followed defencist policies, there would be no war. However, the term ‘defencist’ as it is used by Ceadel refers to orthodox military policies which, though they take defence against aggression to be the sole occasion for military action, envisage uses of military force much wider than simply warding off an attack. ‘Defencist’ policies allow for the capacity to launch a pre-emptive strike, or to launch a counter-attack against an aggressor, and to engage in a retaliatory war aimed at destroying the enemy’s capacity to initiate future aggression. Of course it remains the case that if all States followed defencist policies, there would never be any occasion to engage in pre-emptive strikes or retaliatory counter-attacks. Nevertheless, because defencist policies incorporate this capacity for wider forms of military action, they are provocative. Whatever the assurances given by States following defencist policies, the fact remains that their military forces could be used for aggressive purposes, and other countries will plan accordingly. In times of tension each State may, as the saying goes, be tempted to ‘get its retaliation in first’. By contrast, strict ‘defensive deterrence’ focuses on non-provocative forms of defence. Defensive deterrence aims to deter by means of a military capacity that is not only defensive in intent, but cannot be interpreted by other States as potentially aggressive. It does not tempt them in turn to build up an offensive capacity, and thus does not fuel the fears and tensions which give rise to wars. Defensive deterrence is thus genuinely pacificist. It is a policy that not only says when and how war should be resorted to in present circumstances, but also offers the prospect of reducing the need to resort to war at all.

It would of course be simplistic to suggest that the fears and tensions provoked by arms races are the only causes of war. In the end, States and Governments go to war because they perceive it to be to their political or economic advantage. Pacifists will therefore see defensive deterrence as part of a wider strategy aimed at creating the kind of world in which it is less and less in anyone’s interest to go to war. This means in particular encouraging the tendency towards greater economic inter-dependence and collaboration between States. The more one State is economically dependent on cooperation with another State, the more it will be contrary to its interests to go to war against that State. Similarly, pacifists will want to encourage the creation of diplomatic procedures and institutions which offer less costly ways for States to pursue their political interests.

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What now of the other criterion by which any system of deterrence is to be judged? This was that the carrying out of the deterrent threat must itself be morally acceptable. Defensive deterrence, like any other system of deterrence, aims to avoid the need to carry out the threat. But, again like any other system of deterrence, it may fail. If it did fail, the ensuing military action would be a purely defensive war in the strict sense. Military force would be directed solely against those who were doing the attacking. In contrast to a retaliatory counter-attack, it would be much more likely to respect non-combatant immunity. Therefore, by the standards of the ‘just war’ theory and the principle of not killing the innocent, such military action is morally acceptable.

I have, in chapter 5, cast doubt on those moral criteria. I do not think that the distinction between non-combatants and combatants corresponds to a morally relevant distinction between those who are and those who are not ‘innocent’. All killing in war is to some degree, I argued, depersonalised and indiscriminate killing. I accepted, however, that there are differences of degree. The bombing of cities, whether by nuclear or non-nuclear weapons, is even more indiscriminate, even more incompatible with respect for human lives, than is the killing of enemy combatants who are attacking one’s country. This does not mean that the latter are justly killed. Many or perhaps most of them are not in any strong sense responsible for the attack in which they participate. The most that can be said is that such killing is morally less appalling. We are, however, now arguing within a perspective where war may have to be accepted as inevitable, where military defence is the institutionalised form of resistance to aggression, and where people may find themselves with no choice but to fight. Within that perspective I think it can be agreed that a purely defensive military response to aggression is more acceptable than a policy of retaliatory counter-attack.

Directing one’s defence solely against the invading forces is also a military response of which one can say most plausibly that one has no choice. If one is to resist aggression at all by military means, one has to resist those military forces which are doing the aggressing. If invading troops are crossing the border or coming ashore on the beaches, and one is to offer military resistance at all, then one has no choice but to fight them. If enemy aircraft are bombing one’s country, the defending forces have no choice but to try to shoot them down.
One cannot, however, retaliate against the invaders’ homeland, bomb their factories and power stations and cities, and claim that morally one has no choice. To be sure, military and political leaders do say this. The idea of ‘military necessity’ is regularly invoked to justify any number of atrocities. What they mean by ‘necessity’ here is simply that they have to do these things if they are to maximise their chances of winning. This is very different from the sense which I want to give to the idea that one may have no choice.

Orthodox defencist critics of ‘alternative defence’ will say that this is just the trouble with defensive deterrence; it is a half-hearted acceptance of the idea of defence, that stops short of doing what is necessary in order to win. It is suicidal, they argue, to confine oneself in this way to a purely defensive response. If you wait until you are actually attacked, it may be too late, and you may have lost your chance of successful resistance. It may therefore be necessary to launch a pre-emptive strike against the enemy’s forces in order successfully to defend oneself.

If, once a defensive war has begun, you limit yourself to repelling attacks, without ever launching a counter-attack against the enemy’s military installations, you allow him to go on attacking you indefinitely, until eventually you must succumb. If territory has once been lost in a defensive war, the only alternative to surrendering it will be a counter-attack to recapture it. Moreover, there are modern forms of weapons against which there is no defence other than the threat of retaliation. As Ceadel puts it in his summary of the critics’ case, ‘Infallible defence has been rendered utopian by the development of the bomber and the missile, which are harder to intercept and parry even than land armies...All the alternative-defence movement can really hope to achieve is to reduce, rather than abolish, the retaliatory component of modern defence strategies’ (p. 82). Finally, it may be doubted whether it is even possible to maintain a clear distinction between defence and offence. Is the bombing of an enemy tank emplacement, or the sinking of enemy ships, defence or counter-attack? The difficulty extends to distinguishing between the different kinds of weapons, as the ‘defensive deterrence’ policy purports to do. ‘The disagreement during the World Disarmament Conference of 1932-4 over whether a submarine was aggressive or defensive is indicative of the conceptual problems involved’ (Ceadel, p. 86).
The conceptual point is perhaps the easiest to deal with. It is true that a particular class of weapons may not, in the abstract, be simply classifiable as offensive or defensive. What has to be looked at, however, is the overall mix of weaponry deployed by a particular State. Anti-tank missiles, for instance, can be used in an attacking role, but if they are not part of an arsenal that includes, say, large numbers of tanks and landing craft and strike aircraft, then their use will necessarily be confined to a primarily defensive role. Though there are no sharp lines to be drawn, it is possible to distinguish between States whose range of weaponry puts the emphasis on a defensive capacity and those which possess an offensive capacity. What is true of the weapons is true also of particular military operations. A country fighting a defensive war may have to counter-attack against invading troops which have penetrated into its territory. It will nevertheless be possible to identify the overall strategy as one of defending the country’s territory rather than invading other countries either with aggressive intent or in punitive retaliation against an aggressor.

This still leaves tough practical dilemmas. It remains true that a country that limits itself to a defensive military capacity may, from a purely military point of view, be in some respects more vulnerable. At the extreme, there is indeed no military defence against nuclear missiles, other than the threat of retaliation. Anti-missile missiles are not sufficiently effective to offer full protection against an all-out attack, and a nuclear-armed power that was intent on destroying another country could not be prevented from doing so.

To some extent these criticisms can be answered at the level of arguments about military effectiveness. The claim to be made for a country committed to defensive deterrence is not that it could always prevail in any military conflict, but that it could usually make the costs of invasion unacceptably high for the invader. The aim would be to make the invader’s loss of troops and equipment and resources so great as to outweigh the possible gains of persisting with an invasion at all costs. The fact remains that a militarily powerful country intent on defeating a country committed to defensive deterrence could probably do so. We than have to ask what political objectives it might hope to gain from its victory. If it can win only by

121 The orthodox defencist criticisms of alternative defence are summarised by Cadel, *Thinking About Peace*
wreaking massive destruction, this will limit the use it can subsequently make of the country it has defeated and destroyed. To take the extreme case, if a nuclear-armed State wished to obliterate a non-nuclear State by means of a nuclear attack, no doubt it could do so, but this would destroy the defeated country’s industrial and economic resources and leave its land contaminated and useless for at least decades, and it is not clear what the fruits of such a ‘victory’ would be. Perhaps the greatest danger for a country committed to defensive deterrence is the possibility that the threat of, say, a missile attack, nuclear or conventional, might be used to force concessions such as surrender to an invasion. The threatened country might simply call the bluff of the threatener, and might successfully do so, but a sufficiently ruthless aggressor, possessing overwhelming forces, could demonstrate the seriousness of its intent by beginning on the process of destruction, city by city, leaving no choice but capitulation. Even so, the advantages to be gained by nuclear blackmail, or by equivalent non-nuclear threats, are not necessarily as great as one might imagine. They are limited by other political constraints. A State which employs such threats may find that its relations with other States with whom it wants to be on good terms, and its position in the international community generally, are damaged as a result. The historical record is significant. It is rare that a nuclear-armed State has found it expedient to employ explicit nuclear blackmail against a non-nuclear State but in the Taiwan Strait crisis, the United States specifically threatened China with nuclear retaliation (Chang, 1990)\textsuperscript{122}

These responses to criticisms of defensive deterrence are, however, only partial answers. In particular, they assume that States (and individuals, especially those in power) act rationally, and do not embark on military actions unless they stand to gain from them. Unfortunately this

\textit{and War}, pp. 78-86.

\textsuperscript{122} The United States also considered threatening a nuclear attack against North Vietnam. The conventional bombing campaign from 1964 to 1972 failed to achieve its objective of ending North Vietnamese support for the guerrilla movement in the South and political pressures forced an eventual American withdrawal from Vietnam.


The Alternative Defence Commission recognises that a country committed to defensive deterrence might have to yield to the threat of massive conventional bombing or a nuclear missile attack. It therefore proposes a fall-back strategy on non-violent civil resistance if military defence fails and the country is overrun. I have mentioned previously the possibilities and limits of non-violent resistance. The main problem with the policy proposal is that it is difficult to imagine many existing States providing their citizens with formal training in the techniques of strikes, boycotts, sit-ins, civil disobedience and non-cooperation.
is not always the case. If it were, the problems of war would be greatly diminished, and war would indeed be a less prominent feature of human affairs. The historical record just mentioned is only a limited one, and the wider canvas of human history contains many examples of military activity guided by nothing more than wanton destructiveness. Against such an opponent, a country committed to defensive deterrence may simply find itself without recourse. It is at this point that such a policy is likely to appear naively idealistic, in contrast to the hard-headed realism of a State which sets a premium on military invincibility and provides itself with the necessary means to secure it. Is defensive deterrence thereby invalidated?

If so, it is not alone. Traditional ‘just war’ theory, as we have seen, likewise insists that not all means are permissible; certain kinds of military action have to be excluded, even if the price of foregoing them is defeat. Indeed, as far as invincibility is concerned, it is unattainable. Even nuclear deterrence will work only against a rationally self-interested opponent. A country which is prepared to go down in flames along with its enemy cannot be deterred.

More fundamentally, I want to question the implied division between ‘naive idealism’ and ‘hard-headed realism’. Why should we attach so much importance to military victory? Why call it ‘realism’? The vocabulary used to urge people to victory in war is quintessentially that of idealism. It is full of appeals to the virtue of heroism and the nobility of self-sacrifice. A willingness to sacrifice one’s life for one’s country is, in the context of a different sort of argument, regularly held up as the epitome of devotion to an ideal. If there is such a thing as ‘hard-headed realism’, a better example of it would be not an overwhelming commitment to military victory, but the attitude of the old Italian in Joseph Heller’s novel *Catch-22*:

‘You put so much stock in *winning* wars’, the grubby iniquitous old man scoffed. ‘The real trick lies in *losing* wars, in knowing which wars can be *lost*. Italy has been losing wars for centuries, and just see how splendidly we’ve done nonetheless. France wins wars and is in a continual state of crisis. Germany loses and prospers. Look at our own recent history. Italy won a war in Ethiopia and promptly stumbled into serious trouble. Victory gave us such insane delusions of grandeur that we helped start a world war we hadn’t a chance of winning. But now that we are losing again, everything has taken a turn for the better, and we will certainly come out on top again if we succeed in being defeated’.  

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Heller readily professes that he was a fascist when Mussolini was in power, and is now an anti-fascist; was fanatically pro-German when the Germans were in charge, and is now fanatically pro-American. The young American airman is suitably shocked:

'It's better to die on one's feet than live on one's knees', Nately retorted with triumphant and lofty conviction. 'I guess you've heard that saying before'.

'Yes, I certainly have', mused the treacherous old man, smiling again. 'But I'm afraid you have it backward. It is better to live on one's feet than die on one's knees. That is the way the saying goes'.

But in truth not even this attitude has any special claim to the label 'realism'. Each of these stances, the moral rejection of certain kinds of military action, devotion to the victory of one's country, and a preoccupation with individual survival, is a particular choice of values, a particular judgement about the nature of one's relations with other human beings and about the importance of different aspects of human life.

So we are back with the question: what kind of choice is this? Is it just a subjective preference? A mere expression of feeling? Or can there be objective rational judgements of value about right and wrong ways of living?

\[124\] Ibid., p. 315.
Chapter 7- Preliminary Executive Summary

I have tried to demonstrate, in the first part of this thesis, the scope of rational moral argument. I have argued that the idea of the wrongness of taking a human life is not something which we can just take or leave. It is a deep feature of our structure or moral understanding, grounded in our most basic human responses. As such it has an objective validity, and this remains true however much people may go against it in practice, and whatever further claims they may make about possible reasons for overriding it. I have argued that the standard theories used to justify war, and to override the importance of respect for human life, are objectively untenable. Utilitarianism grossly oversimplifies the range of our moral concerns. ‘Just war’ theory rests on untenable analogies, between individual and collective self-defence, and between individual and collective innocence and responsibility. And particular claims about the desirable results which can be achieved by war are often factually unconvincing.

I suggested that this amounts to a strong rational case against any resort to war. It is, moreover, not just an abstract theoretical argument; it identified an objective anomaly within our moral thinking. The widespread moral acceptance of war is at odds with the importance we elsewhere attach to respect for human life. I also acknowledged, however, that the case against war is not definitive. There remain situations where people can intelligibly say that, though the resort to war is morally appalling, they have no choice, since not to fight would be to acquiesce to an intolerable evil. East Timor being a case in point.

This seems to leave us with an irresolvable moral deadlock. In a sense, it is irresolvable. There is no ‘solution’. This does not, however, confirm the view of philosophers such as Russell that disagreements about war, and other recalcitrant moral conflicts, in the end come down to a clash of subjective preferences. There is a tragic moral conflict here precisely because there are objective claims of right on both sides.

I also argued that the tragic conflict does not leave us helpless. There is always room for further rational reflection on the differing views of what is of overriding importance in human
life. This reflection will not take the form of linear argument, from premises to a conclusion. It will be more the sort of thing which is done by imaginative literature, offering a way of looking at the world that claims to make sense of our shared experience, and, that we can assess accordingly.

Finally, I have suggested that there is another form that further reflection might take. We can, as I put it, shift the argument to a new level, where the existence of recalcitrant disagreement is itself seen as a practical problem that we can try to deal with. We can aim to work out practical policies that might acknowledge the strengths of opposed moral positions, and that might also help to change things in such a way that the tragic conflict is less likely to arise.

I have been discussing the idea of ‘defence deterrence’ as a practical policy that might commend itself in those terms. It builds on the pragmatic case that, I have suggested, can be retained from the ‘just war’ theory, that resistance to aggression may be the most plausible justification for war. It builds on the recognition, again imperfectly registered in the ‘just war’ theory, that indiscriminate killing is morally unacceptable. It builds on the sense which people have that there are situations where one has no choice but to fight. Though incompatible with pacifism, it is a policy that might contribute to the creation of a world where war is a less prominent feature. As such it could be labeled, if not ‘pacifist’, at any rate ‘pacificist’.

The case for defensive deterrence needs to be made in much more detail, with fuller attention to the complex empirical questions about the consequences of following such a policy in a world of powerfully armed States. I will not, however, continue the argument here. What I am more concerned to do is to emphasise that rational argument about the moral acceptability of such a policy is possible, and that it can be carried on between people with radically different moral perspectives. Despite the depth of our moral disagreements, we are not locked within separate and self-contained moral worlds. Those disagreements are themselves articulated within a common moral vocabulary. We can appreciate the force of one another’s moral positions, and we can try to find ways of doing justice to them. In that sense, the resources of rational moral argument are never completely exhausted.
The moral argument that has been developed in the first part of this thesis is now developed further by drawing upon insights from the fields of international relations, political philosophy and anthropology, and by using illustrative examples, particularly from Rwanda and East Timor, to test the arguments being advanced in this thesis.
Part II - Discourses within International Relations, Political Philosophy and Anthropology as a Basis for the Further Examination of War
Chapter 8 – Arguments Against War Based on Human Rights Abuses, Issues Associated with Refugees and Opportunities for Preventative Action

Introduction

The question of the rights and wrongs of a particular war is generally considered from a juridical or quasi-juridical standpoint: so and so broke such and such a treaty, crossed such and such a frontier, committed such and such technically unfriendly acts, and therefore by the rules it is permissible to kill as many of his nation as modern armaments render possible. There is a certain unreality, a certain lack of imaginative grasp about this way of viewing matters. It has the advantage, always dearly prized by lazy men, of substituting a formula, at once ambiguous and easily applied, for the vital realization of the consequences of acts.


It is widely held that killing in war is quite different. It is not, and we need to think about the implications of this.

It is striking how casually most people accept the reasons offered by governments for acts of war. Even many of those who resist abortion, infanticide or euthanasia, on the grounds of a belief in the sanctity of life, sometimes acquiesce with only cursory thought when their governments embark on large-scale destruction of life in war. We compartmentalize our thinking, finding it hard to think about both the large scale and the small scale in proper perspective. The circumstances seem so exceptional that we feel the general taboo on killing is unaffected by its suspension in the context of war.

This compartmentalization has two opposed effects. On the one hand, we regard killing in war as less serious than other deliberate killing. A man who kills as a soldier in war is not
regarded in the same way as a civil murderer, even by pacifists or by those who think he fought on the wrong side. On the other hand, partly because they are the result of deliberate killing, deaths in war still cause more horror and revulsion than deaths which no one intended. We think of the First World War as one of the greatest evils of our century. We scarcely remember the influenza epidemic that followed it, although the influenza claimed more lives than the war. The reasons for these differences of attitude are complex. Here I am not trying to explain the differences, but simply drawing attention to them. The first theme of this chapter is that, apart from important special side-effects, killing in war is morally on a par with other killing. Declarations of war, military uniforms and solemn utterances by national leaders in no way reduce the burden of justification for an act of killing.

The second theme is that our thinking about the morality of war is distorted because the questions are usually presented in too simple a form. The central moral question is usually taken to be about the rightness or wrongness of absolute pacifism. It is too easily assumed that the good arguments that make absolute pacifism implausible end the matter. But the rejection of an absolute ban on killing is only a starting point in a serious discussion of whether a particular act of killing, or participation in a particular act of killing, or participation in a particular war, is justifiable.

War is not a unitary phenomenon, and different considerations may affect the morality of taking part in different kinds of war. There are nuclear wars and conventional wars, world wars and local wars, colonial wars and revolutionary wars, guerilla wars, civil wars, religious wars, tribal wars and others. And, even if we concentrate on the ‘simple’ case of a conventional war between two countries, there are various moral issues that should be separated. There is the question whether the government is justified in committing the country to war. There is the question for an individual, once the war has started, whether or not s/he should participate (and the related question of what provisions the country should make for conscientious objection). Then there are questions about the morality of various general policies or individual acts carried out while fighting a war: questions about the use of nuclear weapons, chemical and biological warfare, saturation bombing, or torture by the military authorities, and questions about certain acts of cruelty or killing carried out by individual members of the forces.
Some people say it is pointless to discuss the morality of war, since, even if it is always immoral, it can never be eliminated, for reasons having to do with human nature or the nature of society. My reply to them is that the biological and anthropological evidence is inconclusive. It is not yet clear that men have an ineradicable predisposition to war, nor that the aspects of our psychology which now contribute to war could not find other outlets. We have hardly begun to experiment with the different forms of society and education which might change our situation. Of course it may be that war is ineradicable, but the bare possibility of this is not an argument for abandoning this discussion. However, in any current analysis, preventing war, at least someone else’s war, remains a challenge that most States seemingly would rather avoid, East Timor being a case in point. It is this challenge, and the possible solutions to it, that I will now discuss more fully.

Wars within ‘troubled States’ have overtaken the threat of wars between States as the most pressing international security problems of the 1990s. After centuries of striving to prevent acts of aggression in international relations, nearly all States are at peace with each other. Far too few, however, are at peace with themselves. The costs of these political disasters for the States not directly involved have so far been bearable. However, the cumulative effects of the worst cases, and the risk of growing numbers of troubled States, are leading to a reconsideration of some of the most basic principles upon which the current international order now rests. Should States develop the norms, political will, and international capacity to prevent ethnic conflict and other forms of domestic mass violence? If current trends persist, this could become the defining political challenge of an emerging new world order.

Preventing someone else’s war is a challenge that most States would rather avoid. Such engagements run counter to prevailing international norms and carry new obligations at home.

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125 US State Department intelligence officer Charles Jefferson uses the term “troubled States” for “those countries which for internal reasons have attracted the interventionist attention of the international community .... It is more policy-oriented than the frequently used “failed States” or “collapsed regimes.” ... It applies also to circumstances in which a regime is unwilling to succour its citizens in the face of natural or man-made disaster. It applies as well to those cases in which a regime is in complete control but is engaged in behaviour so odious that intervention ... is mandated by international authorities or undertaken by other States.” Charles J. Jefferson, “Troubled States in Today’s World” (Second International Workshop on Low Intensity Conflict, Stockholm, June 4-6, 1997) publication forthcoming.
and abroad with highly uncertain political and economic consequences. Above all, it implies a greater willingness to be held accountable, and to hold others accountable, for the treatment of one’s own citizens.\textsuperscript{126}

Few issues are more controversial in foreign and domestic affairs. Sovereigns’ freedom to govern as they choose was the basis of the agreement that established modern world order out of the chaos of seventeenth-century Europe. This has been essentially reconfirmed by each successive major peace conference to prevent future conflicts from Westphalia in 1648 to San Francisco in 1945. Today, sovereign States with divergent interests and huge disparities in military and economic power must still find ways to achieve a more stable peace among themselves.\textsuperscript{127} Therefore, the first test of any proposal to extend collective security downward to prevent today’s wars must be: can there be intervention to limit the abuse of power within States without triggering new abuses of power both within and between States?

The imperatives for what might be called ‘complex prevention’ arise from the spiralling costs and spreading dangers of the political disasters that attract new and diverse forms of intervention and become complex humanitarian emergencies.\textsuperscript{128} Although none of these local conflicts threatens global order, they are occurring with alarming frequency and violence. The

\textsuperscript{126} For thoughtful reflections on the political roots of this reluctance see: Edward Mortimer, \textit{A Few Words on Intervention: John Stuart Mill’s Principles of International Action Applied to the Post-Cold War World} (London: John Stuart Mill Institute, 1995).

\textsuperscript{127} Alexander L. George defines stable peace as “a relationship between two States in which neither State considers engaging in the use of military force, or even making a threat of force in any dispute between them.” Stable peace he distinguishes from “precarious peace” - an acute conflict relationship when “peace” means little more than the temporary absence of war - and “conditional peace” - a less precarious conflict in which general deterrence plays the predominant role except in infrequent crisis or pre-crisis situations in which one or both sides resort to “immediate deterrence” to avoid war. The US-Soviet relationship during the Cold War is the prime example of conditional peace, a precarious peace prevails in the Middle East, but Germany and France now enjoy a stable peace. Alexander L. George “Foreword” in James E. Goodby, \textit{Europe Undivided: The New Logic of Peace in US-Russian Relations} (Washington: USIP Press, 1998).

\textsuperscript{128} The term “complex emergency” emerged in the early 1990s in the corridors of the UN General Assembly during negotiations to establish the Department of Humanitarian Affairs (DHA) as an overall coordinating body in the UN Secretariat, headed by the DHA’s under-Secretary-General, who is of equal rank to the heads of the other main operating departments, to describe both the complex origins and nature of the conflict itself, as well as
annual number of political conflicts that rank as humanitarian emergencies jumped from 5, during 1985 to 1989, to 20 in 1990, and peaked at 26 in 1994. The armed conflicts that can lead to these emergencies are more prevalent. Fifty-eight were under way in 1995, by one estimate, 49 of which were fought over ethnopolitical issues: wars of secession or regional autonomy, conflicts among ethnic rivals for control of the State, communal or clan warfare. Only one was an interstate conflict, a border dispute between Ecuador and Peru. Most of this violence killed fewer than 1,000 people in the preceding year and gained little or no attention from the international media. But although only a few became major disasters, such as Bosnia or Rwanda, ethnopolitical conflict is usually extremely cruel, runs in cycles that are successively more brutal, with little regard for traditional laws of war, and increasingly contradicts the norms, tolerance, and civilised behaviour that generally prevail in post-Cold War relations between sovereign States.

Ninety percent of the casualties in the internal wars of troubled States are civilian, compared with only 10 percent at the start of this century, when mostly soldiers died in battle. Among the survivors of these conflicts are the 14,500,000 refugees from 44 countries who sought protection in 1996, and another 20 to 30 million internally displaced persons (IDPs) who have become refugees in their own countries. Their conditions are often as desperate as refugees,

the complexity of the international response to ameliorating the human suffering and resolving or at least containing the local conflict. What is different about the post-Cold War era is not the complexity of local forces that spawn mass violence, but the scope and nature of the international response. It is the latter dimension that is the primary focus of this thesis. “Complexity,” explains Astri Suhrke, “refers to the interlocking causes, justifications, and aims, which require more comprehensive solutions than those devised by simple “relief” measures.” In Astri Suhrke, *Humanitarian Assistance and Conflict: A ‘State of the Art’ Report* (Bergen, Norway: Chr. Michelsen Institute, 1997), p.10. “Complex prevention” is used in this thesis in a similar way, to indicate the causes, justification, and aims of mass violence within States that require more intricate and comprehensive measures than are involved in national defence strategies for preventing conflict between States.

121 Figures cited by Ted Robert Gurr and Will H. Moore in “Ethnopolitical Rebellion: A Cross-Sectional Analysis of the 1980s with Risk Assessments for the 1990s,” *American Journal of Political Science* 41, no. 4 (October 1997): 1079-1103. The data in this study may be obtained on the University of Maryland’s Minorities at Risk project Web site: www.bsos.umd.edu/cidem/mar. Of the 58 conflicts, 20 are rated as “major conflicts,” defined as those that caused more than 1,000 deaths in the preceding year; and 38 are rated as low-intensity conflicts, defined as those that caused 100 to 1,000 deaths in the preceding year. Another recent study, *Armed Conflicts Report, 1997* (Project Ploughshares, Institute of Peace and Conflict Studies, Waterloo, Ontario, 1997) estimates that in 1996 there were more than 40 wars that killed more than 1,000 people in about 35 countries.
but they do not enjoy the same protections.\textsuperscript{132} They are a mounting burden on the majority of States who, for different reasons, want to contain this problem. No one knows how many people will become refugees and IDPs, but the number currently requiring emergency assistance is three times larger than in the early 1980s.\textsuperscript{133} They have become today’s ‘wretched of the earth’ who, like the suffering masses in Frantz Fanon’s account of the twilight of colonial oppression, acquire an international political significance beyond the indecency of their immediate circumstances. Ironically, many of today’s most wretched are the victims of postcolonial liberations run amok. They are no longer a cause for ending the injustice of a dying imperial order, but a warning of new threats to a democratic order that may finally be possible but has not yet arrived.

Most governments today say they would like to prevent the forced movement of people and the wars that precipitate and often accompany their flight. In contrast to the Cold War, there is no longer much interest in the ideology or outlook of leaders of troubled States. The risk appears to be minimal that preventative action in the current crop of troubled States might escalate to a more dangerous confrontation between rival regional or global powers. The situation could change, if, as noted below, ethnic conflicts continue to spread. With the threat of international aggression diminishing, the cost of humanitarian crises rising, and so many States pressing for UN reform, this could be an opportune moment to encourage States toward preventative diplomacy. Thus far, States have been unable to agree upon the norms to guide such collective efforts. They do not have the political will to act, nor is there international consensus to act. In contrast, the States that founded the UN comprised an international community that was much smaller, less diverse, and better led, and they were concerned only about the traditional goal of preventing threats or acts of aggression between States.

This chapter will concentrate on the link between human rights and humanitarian action in preventing war. Historically, States have tended to treat human rights and refugees as operationally separate, with the people of concern on separate sides of borders. In addition, both have been low foreign policy priorities for most States most of the time. The first section

in this chapter reviews the dual challenges of promoting human rights and protecting refugees, their convergence in recent years, and their links to conflict prevention. The second section illustrates the problem of political will among the major powers, which could, through various multilateral organisations, organise preventative and humanitarian action to address the complex emergencies of northern Iraq, Bosnia, Somalia and Rwanda/Eastern Zaire. Western donors have been unwilling to invest in a program of action which they carefully negotiated and approved with the governments of the Commonwealth of Independent States (CIS) in an effort to prevent possible refugee flows from the area of the former Soviet Union. This resistance illustrates a lack of political will, a sense that missions should cost little and risk even less.

**Rising Numbers, Rising Costs**

The sudden rise in numbers of refugees and internally displaced persons in the 1990s is forcing Governments to reassess the norms, conditions, priorities, and resources they are willing to devote to providing protection and humanitarian assistance. It is also causing them to reconsider how they want to deploy their multilateral institutions for these purposes, which may require changes in existing institutional structures and divisions of labour. Although the interests of States in any particular man-made disaster will vary widely, there has been a long-standing broad consensus to protect refugees and to provide humanitarian assistance to people most seriously affected by crises. Yet States generally do not like refugees and the trouble that surrounds them, and this hostility has intensified as sympathy with the victims of Communism loses currency and as the number of people asking for assistance multiplies.

Those that must bear the greatest burden are invariably the immediate neighbours of a troubled State, most of whom are poor, developing countries that badly need foreign assistance themselves. ‘People in peril’ can also be an acute embarrassment, and worse, a national security threat, to the country that produces refugees and IDPs. For the rest of the world, these disasters have only been of passing, if intense, humanitarian interest as the major

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powers no longer have any strategic interests at stake. Proximity to a major power can, of course, make a difference. Western Europeans feared a flood of refugees from the Balkans; Americans view boat people from Haiti, Cuba and the Caribbean with alarm; and the Russians become nervous about instability in neighbouring Central Asia. Eleven rich countries in Europe and North America are still the targets of 95 percent of all new asylum requests, a fact that haunts the politicians of these countries who are facing heavy domestic pressures to cut budgets and reduce immigration quotas.  

Rich countries are also becoming restive over the rising costs of humanitarian relief and the shocking pictures of human suffering that flash across the media. They are the principal funders of the UN High Commissioner for Refugees (UNHCR), whose budget has jumped in the past 20 years from less than $70 million to more than $1.3 billion and now exceeds that of the UN Secretariat and the UN Development Program. UNHCR's costs are only a small portion of the total bill, although total costs can only be guessed. One highly problematic humanitarian operation, Somalia, is believed to have cost upwards of $3 billion in relief supplies. Related peace-keeping and peace enforcement measures cost billions more. The total bill for Bosnia will never be known but surely already exceeds $15 billion. Compared with world military expenditures of over $700 billion, the annual costs of humanitarian operations, however, seem insignificant. Nevertheless they are the fastest growing accounts in the foreign assistance portfolios of the developed countries. Furthermore, because donor countries have been unwilling or unable to plan for - much less prevent - complex emergencies, sudden surges in the need for new humanitarian assistance raise havoc with their budget reduction plans. Even those who support foreign assistance worry about the opportunity costs of having to respond to humanitarian emergencies. As a US official notes, the vast resources expended in conflict-ridden countries are:

134 US Committee for Refugees, p. 12. The 11 countries are Austria, Belgium, Canada, Denmark, France, Germany, the Netherlands, Sweden, Switzerland, the United Kingdom and the United States.
Taking funds from assistance to other societies who dealt with difficult transitions without exploding into violence. Two years of emergency work in Rwanda, for instance, cost the United States $750 million, roughly equal to the entire annual US aid program to Africa.\textsuperscript{138}

Less apparent to the countries with the means to shape the nature and direction of the post-Cold War international order are the long-term threats to their vital interests if ways are not found to prevent the proliferation of troubled States. Ethnic and intergroup violence is not, after all, restricted to small States struggling to overcome the legacies of colonial or Communist rule. Demands for greater self-determination are being made on an unprecedented scale. When asked to name the biggest challenge that will face the world in the coming century, Isaiah Berlin declared: 'Cultural self-determination with a political framework is precisely the issue... Unless there is a minimum of shared values that can preserve the peace, no decent, moral societies can survive'.\textsuperscript{139}

More than 900,000,000 people, one-sixth of the world's population, belong to 268 politically significant ethnic and other communal groups, many of them potential participants in future armed conflicts, according to Ted Robert Gurr of the University of Maryland's 'Minorities at Risk Project'.\textsuperscript{140} Important States with minorities at risk include China, India, Israel, Pakistan, Russia, and Ukraine. Countries that comprise the ten so-called big emerging markets (Argentina, Brazil, China, India, Indonesia, Mexico, Poland, South Africa, South Korea, and Turkey) are still expected, despite current difficulties, to be the engines of growth in the global economy over the next quarter century; they either face major threats to national integration or are in regions plagued by ethnic conflicts. This is not to suggest that some perverse demonstration or domino effect might cause the chaos now prevalent in western and central Africa to proliferate in other regions. But the domestic demands on these States to accommodate greater cultural self-determination at home, while effecting the necessary


\textsuperscript{139} Isaiah Berlin, "Return of the Volkgeist: Nationalism, Good and Bad," in At Century's End: Great Minds Reflect on Our Times, ed. Nathan P. Gardels (La Jolla: ALTI, 1995).

economic adjustments to compete successfully abroad, could seriously and simultaneously strain the large ethnically diverse nations that will play the pivotal role in sustaining regional and global economic progress and political stability.

The economically advanced and politically stable nations will need capable partners among those same States now struggling to overcome internal divisions if they are ever to reach viable agreements to settle the host of emerging global issues of vital concern to their own domestic, economic, political, and social health. Among the growing list of global concerns are environmental issues and global warming, the spread of infectious disease and public health, crime and narcotics trafficking, terrorism and nonproliferation, and international trade and finance. All will require politically capable States.

Already, the political failures of troubled States that lead to complex humanitarian emergencies are sapping the political attention and financial resources from States that might otherwise be more actively seized with these longer-range challenges. These complex emergencies also threaten to undermine the long-term effectiveness and credibility of the United Nations and its specialised agencies, as member governments have sought to use them as surrogates for more decisive action, while providing them with neither the adequate financial resources nor the political support to carry out humanitarian interventions.

**The Challenge of State Building**

Behind all of these difficulties lies a deeper systemic problem that the major donor nations, the international financial institutions, and the UN are only beginning to address. It is the strategic challenge of State building. In the rush of decolonisation in the 1960s, 140 States were accorded instant formal sovereign equality. Many subsequently proved incapable of turning themselves into viable nations. The World Bank, the International Monetary Fund (IMF), and a variety of other bilateral and multilateral economic and technical assistance agencies invested heavily in transforming newly independent countries into capable economic

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partners. With the onset of the Cold War, however, donors worried less about a country's political development than its international alignment. Weak States avoided tough domestic political reforms by deflecting donor pressures with threats of closer ties to the Soviet bloc. Serious State building, such as the extraordinarily successful but nonreplicable efforts to rebuild the defeated States of Germany and Japan both politically and economically, was never attempted in the developing countries where State making for many is still in its infancy.

In analysing the political deficiencies of developing countries, Michigan State University political scientist Mohammed Ayoob rightly points to the lessons of European State building. In that region it took four centuries, from 1500 to 1900, to forcibly consolidate 500 political entities into the 25 that now rank among the world's most viable modern States. Conquest and annexation thankfully are no longer tolerated by the international community, but this new reality does little to alleviate the internal divisions and political fragility of early State building that, when it runs amok, can lead to war. The potent triple appeal to self-determination, ethnicity, and group rights has unleashed political forces that far too many new States are unable or unwilling to moderate. If new norms, political will, and international capacity can be developed to alleviate the worst internal abuses of power and help prevent more complex emergencies, this may help open the way for greater cooperation. Such cooperation would address the deeper structural problems of weak governance that hold the key to long-term prevention, prosperity, and successful problem solving of major global issues.

The end of the Cold War ideological rivalry and rashes of complex emergencies have made it easier for diplomats to raise the broad issues of internal governance and the damage that a proliferation of troubled States can cause to international order. Former UN Secretary-General

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Boutros-Ghali sought to give the problem of internal conflicts a strategic context in 1992 when he was asked by the first-ever summit meeting of Security Council members to prepare a report on the future of the UN. In *An Agenda for Peace*, he drew attention to the vital links between domestic and world political order:

If every ethnic, religious, or linguistic group claimed Statehood there would be no limit to fragmentation, and peace, security, and economic well being for all would become more difficult to achieve.\(^{142}\)

The internal character of States increasingly is a legitimate international concern that is no longer a function of competing Cold War ideologies. Moreover, it reflects a need to reform the inter-State system not to replace it. Unprecedented international cooperation among diverse numbers of States will be necessary to sustain economic growth and share the burdens of resolving a growing list of global problems. This will not be possible if more small States fail and large ones become increasingly ungovernable. The operational task for the international community in helping troubled States to overcome their internal divisions and to become productive and capable partners has two broad dimensions, one promoting capable States and the other pressing States not to pursue policies and practices that promote divisions and State disintegration.

On the positive side, the World Bank and other international financial institutions can contribute the technical assistance and financial incentives to help governments build the administrative capacity for more effective governance. The World Bank and the other international financial institutions are not, after all, commercial enterprises but rather multilateral organisations created by governments to serve their changing national interests and values. The staff of these organisations are constrained by their Articles of Agreement from

interfering in the internal politics of their member States.\footnote{International Bank for Reconstruction and Development, Articles of Agreement, IV, Sect 10. “Political Activity Prohibited,” states: “The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions ... “One international financial institution with a mandate to promote political change, namely democracy, within its borrowing members is the European Bank for Reconstruction and Development” (EBRD). See EBRD web page, http://www.ebrd.org/intro/index.htm. Also, Melanie H. Stein, “Conflict Prevention in Transition Economies: a Role for the European Bank for Reconstruction and Development?” in Preventing Conflict in the Post-Communist World, ed. Abram Chayes and Antonia Handler Chayes (Washington, D.C.: Brookings, 1996).} The World Bank’s lending priorities and conditions, however, are set by the major shareholder governments, and they frequently seek to shape the politics within borrowing States. Throughout the Cold War, however, these typically had more to do with a State’s international alignment than the management of domestic political affairs, although concern with good governance became increasingly evident in the wake of the debt crises in the 1970s and 1980s when the emphasis shifted to policy-based lending.\footnote{For a review of this history see Francisco Sagasti, Preventing War: Does the World Bank Have a Role? (Washington, D.C.: Carnegie Commission, 1998).} With the collapse of Communism, the World Bank in 1990 began to deal more openly with issues of human rights, corruption, excessive military spending, and good governance.\footnote{For a review of these early internal deliberations see the Operations Policy Department of the World Bank, Governance: The World Bank’s Experience, November 19, 1993.}

By 1997, for the first time, the Bank’s flagship annual publication \textit{World Development Report}, focused on the role of the State.\footnote{World Bank, World Development Report 1997: The State in a Changing World (New York: Oxford University Press, 1997).} It outlined a broad strategy that could allow the Bank to play a significant role in helping States overcome their internal divisions and become more politically capable partners. The two-part strategy includes:

1) Matching the State’s role to its capabilities [so that it does not intervene in areas where it might do more harm than good]; and, 2) raising State capability by reinvigorating public institutions. This means designing rules and restraints to check arbitrary State actions and combat entrenched corruption. It means subjecting State institutions to greater competition to increase efficiency... And it means making the State more responsive to people’s needs, bringing government closer to the people through broader participation and decentralisation.\footnote{Ibid., p. 1-2.}
Of more immediate relevance to troubled States, in 1997 the Bank created a small unit devoted to helping with post-conflict reconstruction.\textsuperscript{148} Conceivably, the Bank and other international financial institutions could also play a more active role in nation building if their lending strategies were geared toward promoting cooperation and interdependence between ethnic and other groups. They could also make certain that the effects of the lending would not create local resentments by appearing to favour one ethnic group over another.\textsuperscript{149} Such ideas remain highly controversial within the Bank and among its government shareholders. Among international financial institutions, the European Bank for Reconstruction and Development (EBRD) has been concerned with promoting democracy among its borrowing members.\textsuperscript{150} In addition to the effects by public donors on this front, there is a huge and growing array of non-governmental organisations that directly and indirectly support programs to assist the development of democracy and better governance.\textsuperscript{151}

\textit{Today's Human Rights Abuses are Tomorrow's Refugees and Internally Displaced}

The second way to help 'troubled States' avoid war, and the way that is the focus in this chapter, is to regard threats to human rights and humanitarian intervention as the early warnings and responses that can help stop and reverse a State's decline. The vital signs that people are in peril and that another domestic war may be brewing are not difficult to spot. As the UN's High Commissioner for Refugees, Sadako Ogata, so often reminds governments,

\textsuperscript{149} One analyst, for example, has suggested that the Bank adopt an "ethnic impact" statement, much as it does before recommending country loans, to ensure that it does not inadvertently exacerbate local tensions. See Wolfgang H. Reinicke, "Can International Financial Institutions Prevent Internal Violence? The Sources of Ethno-National Conflict in Transitional Societies," in \textit{Preventing Conflict in the Post-Communist World: mobilising international and regional organisations}, ed. Abram Chayes and Antonia Handler Chayes (Washington, D.C.: Brookings Institute, 1996).
\textsuperscript{151} See, for example, Thomas G. Weiss and Leon Gordenker, eds., \textit{NGOs, the UN and Global Governance} (Boulder: Westview, 1996); Ian Smillie and Henny Helmich, eds. \textit{Non-government Organisations and Governments: Stakeholders for Development} (Paris: OECD, 1994); and Landrum R. Bolling, \textit{Private Foreign Aid} (Boulder: Westview, 1992).
Today’s human rights abuses are tomorrow’s refugee movements. The links between human rights abuse, refugees, and the eruption of war are by no means automatic, as the dark age of apartheid and eventual democratic transition in South Africa has shown. Although human rights abuses are not always a sufficient cause, they typically are contributors to the involuntary displacement of people. As human rights scholar Roberta Cohen of the Brookings Institution notes, ‘Sadako Ogata is the first High Commissioner to fully appreciate the need for greater collaboration between refugees and human rights bodies as a means of addressing the underlying causes of displacement’.

Human rights are not a new concern, nor is the flight of people in peril. The idea that Adam was created in the image of God, or that civil disobedience brought Daniel to the lion’s den implies transcendent values that are the basis of human rights. The plight of refugees has been evident at least since the exodus of the Israelites and the protection that Mary and Joseph sought in Egypt. Throughout history, societies have dealt with dissent and conflict in many ways, but only in modern times have there been attempts to develop universal rules and structures for humanitarian protection and assistance. The most rapid advances in these two fields have been since World War II, but each has been handled separately and differently in international relations. Human rights victims are found within countries and, traditionally, before they can qualify for protection and assistance they must cross an international border. Conventions covering human rights are much broader, are less institutionalised, and have less operational meaning than the more narrowly drawn but very operational provisions for refugees. Whereas the Office of High Commissioner for Refugees was established in the UN in 1951, a counterpart office for human rights was not approved until 1993.

The UN Charter commits all 185 of its member States to uphold a set of fundamental purposes that includes ‘promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion’. In

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addition, over 130 States have also ratified the sweeping but unenforceable Universal Declaration of Human Rights that was first adopted by the UN General Assembly on December 10, 1948. Twin covenants - one on civil and political rights and the other on economic, social, and cultural rights - collectively constitute a so-called International Bill of Rights. 155 The world's main human rights body is the UN Commission on Human Rights, which was established in 1946 to develop international human rights standards. It is composed of representatives of 53 governments who meet for six weeks once a year. The Commission is supported by a Centre for Human Rights that has traditionally assumed only information-gathering and legal research functions.156

When the 46 founders of the United Nations agreed in 1945 to incorporate human rights, it was a recognition that terrible human rights abuses had been the precursors of Nazi aggression and, had the world acted sooner against these abuses, a second world war and the Holocaust might have been prevented. The new international attention to human rights no doubt helped the consolidation of democracy in Germany and Japan and a generally peaceful end to Western European colonialism in Africa and Asia. More recently, it helped bring an end to Soviet domination of Eurasia, apartheid in South Africa, and the decline of authoritarianism elsewhere. Today, 185 governments are committed to the fundamental purposes of the UN and over 130 have ratified the covenants drafted in 1966 that give practical expression to the Universal Declaration of Human Rights.

The founders of the UN were, however, caught in a profound dilemma. If human rights abuse was the first line of defence against potential armed interstate aggression, how could they deal with such problems without weakening the norms of non-intervention that were the basis of the interstate order they most wished to defend? Protecting sovereign rights was - and still is - seen by most political leaders as far more important to international peace and security than

protecting human rights. Thus, the UN agreed to a formula that reconfirmed the right of all States to conduct their internal affairs without fear of foreign interference (Article 2.7), but, in an historic step of preventative diplomacy, gave the Security Council the power to mandate forceful action in cases in which the most powerful members agree that there is a threat to international peace and security (Chapter VII). Although the founders never anticipated that human rights would be deemed a threat to international peace and security, the Security Council finally decided that the apartheid policies of the South African government merited that designation.

Governments are still reluctant to delve deeply into the human rights policies of other countries out of fear of reprisals or loss of future influence, or fear that actions they take against others might one day be turned against them. Even when States can agree on human rights principles and guidelines, such accords are not bilateral or multilateral treaties that establish reciprocal obligations. Human rights treaties are merely unenforceable voluntary agreements as to how a government will treat the citizens within its jurisdiction. Politically, they can become constraints on a ruler’s domestic freedom of action and may suggest a readiness to tolerate foreign inspections, but the leverage of reciprocal obligations is lacking.\footnote{157}

The commitment that the founders of the United Nations made to not interfere in each other’s internal affairs shaped their policies toward refugees, much as it did toward human rights, but with the result that the two concerns were addressed as entirely separate problems. Although human rights were dealt with in a general, hortatory fashion, UN refugee policy was initially very narrowly drawn but highly operational. The term ‘refugee’ was given a specific legal connotation under the 1951 United Nations Convention on the Status of Refugees.\footnote{158} To legally qualify as a refugee under the convention, a person must be outside his country of nationality and have a well-founded fear of persecution because of race, religion, nationality,
membership in a particular social group, or political opinion. Protection under the treaties cannot be given if these conditions are not met. Individuals who flee across a border from the generalised threats posed by war or civil disturbance, for example, are not covered under traditional international refugee law. Such persons are not, according to international migration expert Arthur Helton, considered to have a sufficiently individualised fear of persecution.

Governments have found it in their interest to stretch the terms of the original refugee convention substantially since 1951. In fact, two different refugee regimes developed almost immediately, one in Europe and North America and the other in the developing world. In Europe and the United States there was the guilt of failing to prevent persecution of Jews and other minorities, and then denying many of them asylum. Doors were open to the World War II survivors and kept open for the politically and economically desirable refugees from Communist countries, and there was little concern that there would be a flood of people. Most of those that were granted asylum in the West expected, and were allowed, to become permanent residents and full citizens.

By contrast, formal provisions for asylum evolved differently in Africa, Latin America, and Asia and reflected traditions of mass movements of people in duress, who often returned home when the trouble passed. Especially in Africa, communities were accustomed to adjusting to large and sudden inflows of people with tolerance and generosity. In 1969, the Organisation of African Unity adopted its own convention that was much broader in scope than the UN convention and included provisions for those fearing war and civil disorder. Countries of Latin America and Asia have also agreed on protection for the influx of

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160 Ibid., p. 50.
temporary refugees - or displaced persons - that go beyond those covered by the UN convention.163

Surprisingly, in light of current realities, neither the convention nor the statute of the Office of UNHCR mentions displaced persons, apparently because the drafters felt that the postwar problem of displaced persons was a transient one that would disappear as soon as peace and normal life were restored in Europe.164 Although both refugees and displaced persons have been uprooted from their homes, the latter term is much broader in its application, both in terms of who qualifies for protection and where they are located. A displaced person does not have to cross an international frontier, although until recently the vast majority were externally displaced and the UN normally required the permission of the troubled State before providing service. As the ranks of refugees and the displaced in the developing world grew, a protocol to the 1951 convention was adopted in 1967 that confirmed UNHCR’s extended reach for protection. Before long the operative meaning of the term ‘displaced person’ included all persons who are uprooted or adrift as a result of ‘man-made disasters’.165 For the most part, UNHCR’s work with the externally and internally displaced during the 1960s and 1970s had to do with resettlement in African and Asian countries during the aftermath of national liberation or civil wars. Gaining the agreement of the concerned governments was fairly straightforward.

Between 1970 and 1990 there were indications of the kinds of challenges that practically overwhelmed UNHCR and other humanitarian agencies following the Cold War, although no one predicted the scale and difficulties of current burdens. In retrospect, the three most important indicators were: 1) the responses of the international community to what in the 1990s are defined as complex humanitarian emergencies, in which they combined the protection and relief functions; 2) sudden mass movements of people which prompted the

164 Yilma Makonnen, “Note on the meaning of the term ‘displaced person’, in the context of the humanitarian activities of the Office of UNHCR and the circumstances under which the High Commissioner is competent to assist displaced persons.” August 2, 1980, unpublished.
165 Ibid., p. 9.

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international community to consider new ways to prevent these influxes by protecting rights within the countries of origin; and 3) the transformation of traditional refugee camps into staging areas for military operations against the country from which the refugees had fled, e.g., the use of internationally supported refugee camps in Thailand to mount guerilla operations against Government forces in Cambodia.

**Complex Humanitarian Emergencies**

Humanitarian emergencies combine 'internal conflicts with large-scale displacements of people and fragile or failing economic, political, and social institutions ... random and systematic violence against noncombatants, infrastructure collapse, widespread lawlessness, and interrupted food production and trade'.

They are not inherently more complex than before, but they are described as such because of 'the presence of multiple and diverse foreign actors, which have found greater freedom for intervention in the more benign political environment of the post-Cold War era'.

The first modern complex humanitarian emergency occurred during the 1967-1970 Nigerian civil war that prompted an unprecedented international relief airlift that was initially organised and run by religious and non-government organisations. Western governments eventually contributed substantial funds and materials to the campaign, but when Nigeria's oil-rich eastern province declared its independence as the State of Biafra, virtually all governments closed ranks in support of the preservation of Nigeria's territorial integrity. The British and the Soviets armed Nigeria while the United States and the Soviets agreed that this conflict should not become a Cold War issue just when détente was beginning and they were preoccupied with the recent Six Day War in the Middle East and the ongoing war in Vietnam. All but four African countries also supported Nigeria. This was not a case, however, in which an agreement among the major powers to prevent the internationalisation of an internal conflict was sufficient. Biafran leaders, with the help of the world media and an outpouring of popular

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sympathy abroad, sought to turn their political goal of secession into a humanitarian imperative. Before the rebellion collapsed, nearly 1,000,000 civilians had perished. And a carefully documented study of that conflict revealed that the humanitarian effort may have actually contributed to the unnecessary prolongation of war. This raises the same deeply troubling moral and political dilemmas that have haunted those who have so courageously and selflessly sought to aid the victims of more recent emergencies, only to become the unwitting pawns of the parties to the conflict.\footnote{168}

If the Nigerian Civil War was a precursor to the 1990s emergencies, so too were the many surges of refugees seeking asylum in developed countries. These influxes prompted governments to reconsider their liberal admissions policies and to begin to consider ways to prevent future crises of this kind. In 1979-1980, the United States was hit by large inflows of boat people from Cuba and Haiti. Although the Vietnamese boat people were unable to cross the Pacific, their plight struck deeply ambivalent emotions among Americans. Meanwhile, large numbers of asylum seekers from North Africa and other developing countries poured into Europe in the late 1980s, raising similar concerns. Daniel Joly and Astri Suhrke summarise the new realities.

For the first time it became manifestly clear that the industrialised countries could be called upon to host asylum seekers from the ‘third world’ at large. … The result was an increasingly divergent path of asylum. The industrialised States … took steps to restrict asylum, at first individually but increasingly in cooperation with each other. … In parts of the developing world asylum was jeopardised as well by declining economies, population pressures, and growing awareness of the environmental costs of hosting large refugee populations. A pattern of de facto mass asylum continued, however, amid intermittent attempts to restrict entry. Overall, it was a pattern in which strong States exercised their power to exclude asylum seekers, while the weak granted mass asylum by default.\footnote{169}

Concern about these mass flows also was registered at the UN where, in the early 1980s, there was talk for the first time about the need for early warning and preventative action to stem refugee movements. In 1980 the Commission on Human Rights decided to appoint Prince

\footnote{169} Joly and Suhrke, p. 3.
Sadruddin Aga Khan as the first special rapporteur on ‘human rights and massive exoduses,’ who was requested to prepare a report with recommendations on the relationship between human rights abuses and refugee flows. The work of the special rapporteur produced no discernible government action or institutional reforms, but it drew attention to human rights abuse as a precursor to mass exodus and therefore was an important early warning signal of a potentially troubled State. The benefits of early warning and of holding governments accountable for human rights abuse and for refugee flows were further endorsed by a UN group of government experts established by the General Assembly in 1981 to consider Aga Khan’s report, and it recommended in 1986, for the first time, that governments be required to pay compensation to those forced into flight. The High Commission for Human Rights and other UN agencies were reluctant at that stage, however, to explore ways to implement the proposal.

While governments were beginning to debate how to prevent new refugee flows, the humanitarian and security situations in several existing camps were becoming more difficult because of the commingling of refugees and armed guerilla and liberation movements. As former US Ambassador Robert Oakley recalled in 1997:

During the Cold War period, there was sort of an ‘ends justify the means’ and a ‘don’t ask, don’t tell’ attitude concerning freedom fighters or guerrillas and refugees. The UNHCR dealt with the problem formally by establishing a minimal distance for people with arms to stay away from refugee camps. In actual practice, however, this was an easy rule to evade; and even if guns were kept out of the camps, the refugees served as the prime source of guerrilla manpower. Food and medicine for refugees were easily diverted to ‘liberation’ movements. This was the case in such instances as Cambodian refugees along the Thai border, supporting the fight against the Vietnamese and their allies in Cambodia; Afghan refugees along the Pakistan and Iran borders, supporting the mujahideen fight against the Russians and their allies in Afghanistan; Nicaraguan refugees along the Honduran border supporting the Contra fight against the Sandinista regime in Nicaragua. Other cases come to mind when one looks at Angola and

Scholars have coined the term ‘refugee-warrior communities’ to describe these camps. Caring for refugees in these instances appeared to take priority over trying to preserve the aura of neutrality and innocent victims. In fact, the humanitarian motivation was closely allied with the political/military considerations of the United States and other governments who also funded and provided sanctuary for the refugee camps. The populations in these camps were seeking more than traditional protection. They were seeking the means to eventually overthrow regimes that the United States and its allies viewed as illegitimate. Yet regardless of the political merits of these operations, they were de facto contradictions of traditional international humanitarian laws, a fact that governments with the power to enforce these laws chose to ignore. Tragically, ‘warrior-refugee communities’ did not disappear with the end of the Cold War. In some cases, notably the situation in Eastern Zaire, which is summarised in the next section of this chapter, problems of camp security have become so severe and the moral hazards of supporting several militaries have become so pronounced, that most humanitarian agencies have pulled out.

Two other troubling legacies from the politicisation of relief camps in the 1980s and 1990s have also had an impact on the nature of post-Cold War complex emergencies. First, when camps are hotbeds of resistance, and insurrections continue against the current regime in the country of origin, it is practically impossible for repatriation to occur until that regime has been deposed or the refugees drop their defiance. As a result, refugees have tended to remain in the camps, turning them into semipermanent communities that can pose economic and security problems for the asylum country. Second, solidarity continues between the people in refugee camps and relatives back home, many of whom may be internally displaced but can still provide support and cover for guerrillas who move back and forth across frontiers. For humanitarian agencies, the vulnerable populations in camps on both sides of a troubled State’s borders have also led to a blurring of lines between traditional categories and criteria for

assistance. In these situations, humanitarian agencies now sometimes ignore the authority of the central government - if one still exists - and depend on local militia or other special forces for their security.

The precedent for defying the wishes of a central government was set during the Nigerian Civil War. The International Committee of the Red Cross was not the only humanitarian agency to abide by the international conventions that require the consent of the recognised government, but it was the most visible defender of norms that have eroded significantly as other agencies took the position that providing humanitarian relief was the overriding imperative, regardless of the political issues at stake in a particular conflict. The politics of the Nigerian Civil War proved more complex and intertwined with humanitarian operations than most agencies were willing to admit at the time. Médecins sans Frontières (MSF [Doctors without Borders]), an agency born during the Biafra War with a name that symbolises defiance of traditional restraints on humanitarian action, concluded after the Nigerian Civil War that it and others had been used by the leaders of the Biafran secession in ways that may have added to the suffering and starvation of the innocent people they were trying to help. These dilemmas have only become much worse for the humanitarian relief agencies during the terrible complex emergencies that have followed in the wake of the Cold War.\textsuperscript{176}

\textit{Preventative Protection}

Humanitarian action in times of war and political crises seeks to relieve the suffering and protect the human rights of innocent civilians. Such concern gained institutional standing with the formation of the International Committee of the Red Cross in 1864.\textsuperscript{177} As the nature of wars changed so did the nature of humanitarian action. The most dramatic changes were technological but the most disturbing changes were political. Both were tinged with irony. Weapons became progressively more deadly, indiscriminate, and terrifying until nuclear deterrence finally neutralised war as an instrument of politics in the competition for global dominance between the major powers. Nevertheless, for those who are still willing to use war

for political ends the complexion of the victims has changed fundamentally. The ratio of soldiers to civilian casualties has shifted from 9 to 1 in the early decades of this century to 1 to 9.\textsuperscript{178} This painful reality, coupled with the decline in the number of wars between States and the proliferation of wars within States, has made humanitarian action increasingly costly, dangerous, and difficult for multilateral, bilateral, and nongovernmental providers of relief and human rights protection.

As complex emergencies have proliferated in the 1990s, major donor Governments have turned to the UN High Commissioner for Refugees to be the lead agency for humanitarian assistance.\textsuperscript{179} In the process both the scale and the scope of UNHCR operations changed dramatically. Between 1990 and 1996, UNHCR’s budget jumped from $544 million to $1.3 billion and the staff increased from 2,400 to 5,000.\textsuperscript{180} More important, how UNHCR dealt with the victims of internal wars changed in ways that affect the most fundamental principles of modern interstate relations. During its first 40 years, with few exceptions, UNHCR established its field presence on the other side of the international border of a troubled State and simply waited to receive and to protect refugees fleeing conflicts. Classic concepts of State sovereignty - still enshrined in the UN Charter - required that UNHCR refrain from becoming involved in the internal conditions of the countries that might give rise to refugees.

Since 1991, UNHCR has been increasingly active inside conflict-torn States. Examples include Afghanistan, Bosnia, Mozambique, Sri Lanka, Tajikistan, and Kosovo. Consent of the State concerned remains, in principle, a necessary precondition unless the UN Security Council declares, under Chapter VII provisions of the Charter, that the internal conflict is a threat to international peace and security and mandates intervention. In practice, the lines between domestic and international jurisdictions have become increasingly blurred. From a humanitarian perspective the nature and causes of the suffering among refugees and the internally displaced may be indistinguishable. Moreover, in cases where military or ethnic

\textsuperscript{177} Weiss and Collins, Chapter 1.
\textsuperscript{180} US Committee for Refugees, p. 25.
factions predominate and there is no functioning recognised government, consent becomes moot.

UNHCR's growing involvement in the domestic affairs of troubled States reflects more than a response to the humanitarian imperative to help those in need. These efforts also respond to the reluctance of other States to grant asylum to refugees. The High Commissioner attributes the growing unwillingness to support intervention that would stem the tide of refugees to three factors.

First, to the degree that previous refugee flows were often linked to the 'proxy wars' of the Cold War, States sometimes had a strategic interest in hosting refugee populations. Other refugee movements were linked to colonial liberation wars. Motives for granting asylum ranged from the genuine sympathy for refugees to the military uses of refugee populations. Second, governments of Africa established a truly remarkable record in granting asylum to refugees and in adhering to the principle that the granting of asylum should not be seen as a hostile act.

Although one can still find many examples of this generosity in Africa, the sheer magnitude and accompanying spread of insecurity has created severe strains. In addition, the increasing reluctance of donor governments to pay the bills for maintaining large numbers of refugees has had a negative impact upon the willingness of countries to provide asylum. Third, as countries in the North are facing large, and what they consider to be irregular, migratory flows into their countries, the critical distinction between refugees and migrants has become blurred and is eroding the consensus on the importance of asylum. As a consequence of these three reasons, options have been examined to provide international protection inside countries of origin.\(^{181}\)

The winding down of the Cold War in the late 1980s was marked by progress in resolving several regional conflicts in southern Africa, central America, and Asia and UNHCR was mandated to facilitate the safe return of refugees. UN humanitarian agencies and peacekeeping operations forged new partnerships and worked well together within the framework of peace agreements that had been carefully negotiated and enjoyed strong international backing. The first of these major undertakings was the UN Transitional Authority in Cambodia (UNTAC) that oversaw UNHCR's repatriation of 370,000 refugees. Another positive example of post-

\(^{181}\) Sadako Ogato, "World Order, Internal Conflict, and Refugees", (address delivered at Harvard University, Cambridge, MA, October 28, 1996).
conflict humanitarian and peace building was the United Nations Operation in Mozambique (UNOMOZ) that helped repatriate some 1,500,000 refugees from six neighbouring countries. The head of UNHCR’s Centre for Documentation and Research, Eric Morris, writes that these two successes were the models for what many hoped would be a new trend in multilateral humanitarian action linked to preventing further conflict.\footnote{Eric E. Morris, “The Limit of Mercy: Bosnia, Somalia and Rwanda and Their Lessons for the Future,” unpublished report, UNHCR, Geneva.} Unfortunately, the response of the major Western Powers to the situations in Bosnia, Somalia, and Rwanda showed a more troubling side of how they use humanitarian action to compensate for the lack of political consensus and the will to deal with the peace and security aspects of complex emergencies.

Demands from governments for a series of unprecedented UN-sponsored humanitarian interventions came suddenly during the early 1990s and posed new dangers for the agencies involved that were not present in the operations to help consolidate the peaceful resolution of Cold War-related regional conflicts.

\textbf{Iraq}

The first big surprise for humanitarians was the 1991 Security Council mandate that UNHCR protect, assist, and reintegrate some 2,000,000 Kurds in northern Iraq under dangerous circumstances and with only 500 UN guards for protection. The motivation for establishing these safe areas reflected the strategic, more than the humanitarian, interests of major Western powers that led the Gulf War coalition. Kurdish refugees posed a major security threat to Turkey, and its NATO allies, the United States, Britain, and France, resolved not to allow those who had been forced from their homes by Saddam Hussein to cross the frontier, while encouraging those who had crossed the frontier to return. For the first time, the Security Council determined that the flow of refugees, not the threat or act of aggression by any State, posed a threat of sufficient magnitude to warrant international action under the terms of Chapter VII. Without such a mandate it is unlikely that international humanitarian assistance for the Iraqi Kurds in Operation Provide Comfort would have been forthcoming.
Sustaining international programs of relief and protection for the Kurds in Northern Iraq has become increasingly problematic. On August 30, 1996, the Iraqi army blatantly challenged the 'safe havens' by suddenly crossing into the town of Erbil. Government agents then began arresting or killing people they claimed were opponents of Saddam Hussein, particularly anyone who had worked directly with US government and private agencies. This showed the Kurds that they were no longer safe, a reality that became more apparent as the United States withdrew its own nationals from the area. In the wake of the Iraqi incursion and as the Americans left, tensions arose within the international humanitarian community over the disposition of Iraqi aid personnel who were working for Operation Provide Comfort.

The US government feared that if it did not protect its local relief workers they would be killed by Iraqi forces and proceeded to evacuate 6,500 of them. In so doing, however, a main link in the humanitarian operation was broken. No one committed to supporting Operation Provide Comfort questioned the need to maintain the flow of relief or the need to give protection to those Iraqis who would be vulnerable to attack. Those responsible for maintaining ‘safe havens’ were confronted with the awful choice of whether to put safety ahead of assistance, or assistance ahead of safety. Since then relief has continued to flow while safety erodes. More desperate dilemmas have afflicted humanitarian operations in Bosnia, Kosovo, Somalia, and Rwanda/Eastern Zaire. They corrode the integrity of humanitarian and human rights missions, not to mention the sanity of the brave men and women who are trying to carry them out. For outsiders, avoiding these debilitating circumstances becomes another reason why finding ways to prevent the outbreak of war and complex emergencies is so urgent.

In the case of the Iraqi Kurds, there was at least a convergence of interests of the major Western powers in launching this extraordinary humanitarian intervention. In Bosnia, Kosovo, Somalia, and Rwanda/Eastern Zaire the UN and its humanitarian agencies were asked to undertake challenges that are even more difficult, but without the same degree of convergent interests. Although there was agreement in the Security Council to treat each of these domestic conflicts as a threat to international peace and security, the humanitarian interventions that were approved were half measures that called for providing assistance to those forced to flee under conditions of mass violence - 'ethnic cleansing,' genocide, and
other crimes against humanity - but lacked the means to provide even minimal protection for humanitarian operations.\textsuperscript{183}

\textit{Bosnia}

The willingness of the major Western powers to use humanitarian assistance as a substitute for more forceful means of protection of civilians in Bosnia was evident almost from the start of the multinational intervention in 1992. Details of this deeply flawed response to the worst European conflict since World War II have been well documented, including the authoritative account by the European Union’s special envoy, David Owen.\textsuperscript{184}

UNHCR was mandated to provide relief to war victims and monitor the extent to which the parties to the dispute were adhering to international norms in dealing with civilians. Increasingly, UNHCR was also forced to operate in so-called ‘safe havens’ that were anything but safe and left civilians and relief workers as pawns in the wider struggle for ethnic domination. The moral dilemmas in carrying out this complex mission were excruciating. Suddenly UNHCR was trying to help some 1,200,000 desperate people, none of whom met the traditional criteria of internationally recognised refugees but who were at dire risk. UNHCR and other humanitarian agencies were increasingly helpless in containing the forced removals of people that had become the main object of this brutal conflict. The UN Protection Force (UNPROFOR) was given the task of delivering relief to war victims in Bosnia, but they had to operate under the limited mandate of traditional peacekeeping, despite the fact that no peace agreement existed. While local authorities were carrying out the most blatant human rights abuse, UNPROFOR was expected to adhere to the principles of impartiality, secure the consent of the local authorities, and restrict its mission to providing security for those delivering humanitarian relief. UNPROFOR had no mandate to protect the actual victims in this most inhumane conflict.

\textsuperscript{184} David Owen, \textit{Balkan Odyssey} (London: Victor Gollancz, 1995).
The Security Council duly debated the need for a ‘robust’ peace-keeping force and in August 1992 (Resolution 770) declared that ‘all necessary means’ should be used to ensure delivery of relief, but as Eric Morris sadly recalls ‘this debate was divorced from the reality of what UNPROFOR was purposefully equipped to do’. According to the US government consultant, ‘all necessary means’ in practice meant having to pay huge bribes to the perpetrators of ‘ethnic cleansing,’ the Bosnian Serbs, in order to get relief to those most in need. The Security Council repeatedly made formal condemnations of the concentration camps and other atrocities, but when the special rapporteur for the UN Commission on Human Rights requested more troops and a more flexible mandate for dealing with these crimes, the Council baulked. At best, UNHCR and other humanitarian agencies could only bear witness to injustice; they could neither prevent nor punish these crimes.

When in 1993 UNPROFOR was charged to establish ‘safe areas,’ the willingness of the major powers to use humanitarian action for political purposes became even more apparent. In contrast to Operation Provide Comfort in northern Iraq, the Bosnian ‘safe areas’ were neither safe nor did they serve humanitarian purposes. They became little more than pawns in the game of war. Humanitarian action, to a much greater degree than even before, was used by the major powers to obscure their lack of resolve to deal effectively with the Bosnian crises. Tragically, the Security Council continued to mandate humanitarian assistance in lieu of more forceful actions to restore peace and security in Bosnia until the war escalated to a point where it threatened the stability of the Atlantic community. Only at that stage did the major powers agree to launch the Dayton peace process, which they subsequently backed with the deployment of NATO forces. Yet the pattern of response to events on the ground that has inhibited international forces from taking convincing steps in support of human rights persists. The current failure to arrest and prosecute known war criminals and to protect minorities discourages refugees from voluntarily returning. Despite the inadequate security and general unwillingness of the international community to enforce the Dayton Accords rigorously,

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186 For an assessment of the increasingly destructive relationship between the humanitarian and peacekeeping operations in Bosnia see David Rieff, *Slaughterhouse: Bosnia and the Failure of the West* (New York: Simon and Schuster, 1995).
Germany and other countries with Bosnian refugees reportedly are eager to begin repatriation.\textsuperscript{187}

The lessons of the Bosnian intervention have been bitter ones. Governments with the capacity for more forceful actions, notably the major Western powers, were unwilling to risk a domestic political backlash should the initiative fail or produce military casualties. But by depending on half measures they undermined the effectiveness and credibility of their intergovernmental organisations and, far worse, allowed these institutions to be manipulated by those most responsible for the humanitarian emergency and thereby made matters worse for the victims of these crimes.\textsuperscript{188} ‘Preventative protection’ ended up not protecting those most vulnerable, but merely protecting neighbouring countries from a greater tide of refugees. For proponents of conflict prevention rather than preventative protection, the Bosnian experience provides an ample, but by no means the only, rationale.

\textit{Somalia}

By the time the major powers decided to mount a UN humanitarian intervention in the spring of 1992, the Somali State had collapsed. The Security Council’s decision to deploy troops (UNOSOM I) under Chapter VII to protect the relief operations marked another significant extension of what constitutes a threat to international peace and security. Unlike Iraq, Bosnia, or the later case of Haiti, there was no threat of huge numbers of refugees spilling into countries of strategic importance to the major powers, although large and squalid relief camps did spring up in Ethiopia, Kenya, Djibouti, and Yemen. Somalia was seen as strictly an internal disaster and it was only the ‘magnitude of human suffering,’ graphically reported by the world television news - later dubbed the ‘CNN effect’ - that became the justification for action.\textsuperscript{189} Unfortunately, the initial response appeared to be too little too late.

By late 1992 it was reported that 80 percent of the huge quantities of food piling up on Somali docks was being stolen by the country’s warlords to fuel their military campaigns thus preventing the delivery of urgently needed relief to the starving millions. This prompted President George Bush to offer a US military contingent that could lead a new UN-sponsored multilateral force (UNITAF) to ensure safe delivery.\textsuperscript{190} Thirty thousand troops were quickly deployed in what was widely heralded as a new form of ‘armed humanitarianism,’ in sharp contrast to the half-hearted, ineffectual involvement in Bosnia. The United States insisted, however, that its military involvement last only six months before withdrawing in favour of a reconstituted UN force in May 1993. The United States succeeded with its limited mission of getting food to practically all in need but it did not disarm the warlords. From the standpoint of humanitarian action and preventing war, the US failure to seize and destroy the Somalis’ heavy weapons reassured the warlords that the powerfully armed US forces would soon be gone. This merely allowed the Somali militia to bide their time until they would face a much weaker UN contingent of 18,000.\textsuperscript{191} UNOSOM II did inherit UNITAF’s peace enforcement powers but assumed the daunting task of disarming the militia and ‘nation building’.

In early June 1993, 23 Pakistanis were killed in an ambush and another 54, including Moroccans, Nigerians, Pakistanis, and others, were killed in further engagement, making it the largest UN loss since the Congo operation in the early 1960s. The UN, with strong backing from the United States, responded by trying to capture General Mohammed Farah Aidid, the leader of the clan that was believed to have killed the Pakistanis. This campaign suddenly collapsed when, on October 3, 1993, Aidid’s forces ambushed a group of US soldiers, killing 18, and wounding 78. The United States initially blamed the UN for its own tactical failure and then proceeded to withdraw all its forces over the next six months. In March 1995, the UN also withdrew without any peace settlement in sight. Although an important precedent had been set whereby the Security Council approved a Chapter VII intervention for purely


\textsuperscript{191} Walter Clark and Jeffrey Herbst, Learning from Somalia (Boulder: Westview, 1997) and “Somalia and the Future of Humanitarian Intervention,” Foreign Affairs 75, no. 2 (March/April 1996).
humanitarian purposes, the fickleness of US involvement and UN overreach led to a tragic failure of will and capacity to do ‘armed humanitarianism’ that probably contributed to an even greater failure to Rwanda a few months later and continues to haunt multilateral action.

Rwanda

One of the more complex and perplexing refugee crisis of the 1990s continues to unfold in the Great Lakes region of central Africa. Escalating cycles of ethnic violence between the traditionally dominant Tutsi minority and the Hutu majority culminated in the mid-1994 genocide of some 800,000 Tutsi. Two thousand five hundred troops of the UN Assistance Mission for Rwanda (UNAMIR) had been sought a year earlier by the Security Council to play a traditional peacekeeping role in support of the stillborn peace process. Unlike the situations in Bosnia and Somalia, the mission did not cover protection for humanitarian assistance. Moreover, because of the difficulties in these two prior conflicts, UNAMIR’s mandate was so narrowly drawn that it could not intervene to halt the genocide.\(^{192}\) Instead, the Security Council decided to reduce the force to 270, only to reverse itself and agree to send 5,500 as reports of genocide became more horrific. This force was ultimately given the mandate to protect internally displaced persons, refugees and other civilians at risk, and to provide security for humanitarian assistance. No new UNAMIR troops were forthcoming, however, as troop-contributing countries recalled the bitter experience of Somalia. The French eventually stepped in with a unilateral force of 2,500 that had the endorsement of the Security Council and a narrow mission of protecting the predominantly Hutu population in south-west Rwanda. Meanwhile, an invading force of Tutsi exiles from neighbouring Uganda routed the Hutu army and militia from the capital, Kigali, thus igniting the flight of 1,700,000 Hutu into Zaire, Tanzania and Burundi, with perhaps an equal number of internally displaced.\(^{193}\)

The failure of the international community to undertake more suitable measures to protect and assist the vulnerable in Rwanda has had far-reaching consequences for the region and the

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\(^{192}\) See Ch. 11 of this thesis (pp.355-384) for an explanation as to why the genocide was not prevented.

\(^{193}\) Rising ethnic tensions in Burundi between Tutsi and Hutu generated another 250,000 internally displaced persons and refugees who spilled into Tanzania and Zaire.
humanitarian agencies. The biggest wave of Rwandan refugees created camps in Eastern Zaire where dysentery, cholera and dehydration killed 50,000 in July 1994 alone. As images of this terrible suffering spread through the world media a major outpouring of humanitarian assistance quickly got under way that cost nearly $1.5 billion in the first nine months. While mass starvation was prevented, there were other costs for UNHCR and other humanitarian agencies that resulted from acute difficulties in fulfilling the dual mandate of protection and relief.

Interspersed among the Hutu refugees were armed forces of both the former Rwandan army (Force Armée Rwandaise or FAR) and the brutal militia (interahamwe) that had been responsible for the genocide. These forces actively spurred their fellow Hutu to flee and then dominated the refugee camps in ways that caused acute insecurities and moral dilemmas for international relief workers. These extremists were not disarmed, the appeals by UNHCR and the UN for a protection force were ignored by governments, leaving UNHCR no alternative but to hire Zairian troops as mercenary police. The extremists continued to dominate the camps, intimidating most of the refugees, extorting relief supplies, and placing the agencies in the position of feeding perpetrators of genocide as a condition for feeding the innocent. Some agencies found this unacceptable and left in late 1994. As the interahamwe and ex-FAR forces regained strength, they embarked on an insurgency against the new government in Rwanda. Conditions continued to worsen as Hutu extremists clashed with local Zairian Tutsi (Banyamulenge). Zairian government troops began to force Rwandans to return home, and the violence on both sides of the border escalated. Despite these terrible and deteriorating conditions, there was insufficient resolve at the UN to mount a humanitarian intervention until Canada stepped forward in late 1996 and offered to lead a multinational force. Before the force could be deployed, however, an uprising of Zairian Tutsi, with evident assistance from Rwanda, Uganda and other neighboring countries, confronted the interahamwe and ex-FAR and forced them to flee. Once free of their camp intimidators, the Hutu refugees almost

\[195\] Sharpily rising contributions for humanitarian assistance contrast with declining donor support for development. The $1.5 billion, for example, dwarfed the $750 million that the United States provided in development assistance to the entire continent that year.
\[196\] CARE - Australia, Médecins sans Frontières and the International Rescue Committee were among the more prominent groups who felt their human rights principles were being violated to such an extent that they could not continue, and they pulled out.
immediately started trekking home and plans for an international multinational force were then set aside.

Although the security in Rwanda and the Great Lakes region appeared to improve with the repatriation of refugees from Zaire and Tanzania and with the overthrow of Zaire's widely detested dictator, Mobutu Sese Seko, problems of reconciling humanitarian and human rights imperatives persist for UNHCR and other agencies that are still trying to ameliorate the terrible plight of refugees and IDPs in areas of the Democratic Republic of the Congo, formerly eastern Zaire. Site visits by a delegation from the US Committee for Refugees, April 10 to May 10, 1997, revealed an ongoing cycle of ethnic killings that forced international agencies to choose again between humanitarian and human rights imperatives. As their report notes:

Less than a year ago, a campaign of 'ethnic cleansing' by the FAZ [Armed Forces of Zaire], Zairian Hutu militia, the Interahamwe, and the former Rwandan military (ex-FAR) expelled virtually all Tutsi ... in the aftermath of the civil war, the prevailing psychology on the ground is that the 'tables have turned'. Banyakulenga troops appear to be particularly hard line. There is reason to believe they are systematically attempting to eliminate many refugees before they can return to Rwanda ... Pockets of Interahamwe and ex-FAR persist among the refugees dispersed throughout eastern Zaire. ADFL [Alliance of Democratic Forces for the Liberation of Congo-Zaire] soldiers continue to view them as a military threat and tend to regard Zairians who help refugees as 'collaborating' with the enemy.197

To advance these policy aims, the ADFL was not above exploiting UNHCR and other humanitarian agencies. As the US Committee for Refugees (USCR) team discovered:

ADFL officials in South Kivu require all international aid agencies to employ in the field civilian 'facilitators' linked to the Alliance. The 'facilitators' are supposed to accompany relief workers in order to facilitate bureaucratic matters such as passage through roadblocks, etc. ... by accompanying relief agencies in the field, Alliance 'facilitators' become well informed regarding the locations of refugees emerging from the forest. Typically, refugees in hiding make contact with relief agencies by sending a representative to the main road. Aid workers in Bukavu allege that a suspicious cycle has emerged: Once relief agencies identify groups of refugees, Alliance troops suddenly declare the area a military

operational zone, blocking access to relief workers. When aid agencies subsequently receive permission to re-enter the area where refugees were previously located, none can be found. Some international NGOs have concluded that some refugees are being systematically eliminated. USCR's site visit concluded that these concerns are credible.  

There is no way to know if the lives saved by repatriation operations out number the deaths caused by the ADFL's exploitation of humanitarian programs ... USCR's site visit concluded that the ADFL's imposition of 'facilitators' on international relief programs seriously undermined the integrity and independence of humanitarian operations ... Relief agencies must regularly re-examine - both in the field and at the highest levels of the organisation - whether they should suspend operations until they are able ... to fulfil their humanitarian mandate without doing inadvertent harm.  

Areas Controlled by the Former Soviet Union

Although the Western powers focused most of their attention and emergency assistance in the 1990s on war in the Balkans and Africa, initially they had been much more alarmed by the prospect of mass migrations westward when the Berlin Wall fell and the Soviet Union collapsed. First, there was the possibility of tens of millions of economic migrants from Central Europe, prompting the members of the European Union (EU) to quickly and significantly tighten their border controls in 1989-1990. When the Soviet Union broke apart, Western Europeans and their US Allies faced a much greater nightmare: the possibility that they would have to accommodate the refugees arising from ethnic hatreds and conflict on an unprecedented scale. Compared with the upheavals when Communism failed in Yugoslavia, a country of some 20,000,000, the Soviet Union left over 200,000,000 people, with over 130 ethnic groups, in 15 States of questionable political and economic viability. At least 25,000,000 Russian speakers resided beyond the borders of the Russian Federation and nearly 70,000,000 lived outside the republic of their ethnic origin, many of them forcibly removed and relocated by Joseph Stalin.

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198 Ibid., p. 5. As of mid-May 1997, only the International Committee of the Red Cross (ICRC) had categorically refused to comply with the use of facilitators.
199 Ibid., p. 9.
West European countries began to consult about a coordinated response immediately after the collapse of the Soviet Union. The result was the 1994 'Communication' from the European Commission that outlined a three-pronged defence to: 1) control borders; 2) integrate foreigners already legally residing in EU countries; and 3) deal with the causes that might precipitate mass flight. Refugees, at least in Europe, would no longer be the objects of traditional humanitarian assistance and protection of the EU's emerging common foreign and defence policies.\textsuperscript{201} For whatever reasons, however, the massive westward movements did not occur and the EU has become inexplicably complacent about the complex and daunting problems facing the Soviet Union's successor States.\textsuperscript{202}

Yet within the former Soviet space, there have been huge population movements. Between 1989 and 1996, nearly 9,000,000 people moved within or between the countries of the Commonwealth of Independent States (CIS) - one in every 30 of the region's inhabitants.\textsuperscript{203} All are believed to have moved for involuntary reasons, and the number does not include economic migrants. A total of 3,300,000 were deported to be repatriated in their country of ethnic origin (for example, the Crimean Tatars), another 2,300,000 IDPs plus 700,000 refugees sought protection from war (such as in Tajikistan or between Armenia and Azerbaijan), 1,200,000 were from past deportations, and nearly 700,000 were forced to leave their homes because of dangerous environmental hazards. It is impossible to predict how many more will move, over what time period, and with what detrimental social, economic and political consequences for the future peace and prosperity of the CIS States. As former UNHCR Assistant High Commissioner de Mello notes:


\textsuperscript{202} Kathleen Newland, Senior Associate in International Migration Policy at the Carnegie Endowment for International Peace, notes that most large multinational States such as India, Brazil or the former Soviet Union typically do not generate large refugee flows, although there can be large internal displacement. Language affinity, family and ethnic networks, and other factors seem to inhibit most people in States with large territories from fleeing abroad.

\textsuperscript{203} UNHCR, \textit{The CIS Conference on Refugees and Migrants: Forced to Move by War in Circumstance}, conference brochure, May 1996.
The main problem lies in the very porousness of the borders of the CIS countries (in strong contrast to the borders of Western Europe). The issue is not so much how to close the borders, but rather how to prevent massive movement of populations.204

Russia opened the opportunity for the international community to help the new States of the CIS take positive steps to prevent ethnic tensions from exploding into complex emergencies and more forced displacements. In 1993, Foreign Minister Andrei Kozyrev proposed to the UN General Assembly that there be a global conference dedicated to refugees, displacement, and migration issues. With UNHCR already deeply engaged in wars in three CIS countries and about to be drawn into the Chechnya crisis within Russia itself, the UN decided to follow its general policy of promoting regional solutions to refugee problems. The General Assembly in December 1993 asked UNHCR to take the lead in organising the CIS Conference on Refugees and Migrants (IOM) and the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (OSCE/ODIHR). The conference would have three objectives: 1) to provide a reliable regional forum to address problems related to population displacement; 2) to analyse all population movements in the region, in order to clarify and agree on the types of movements and categories of people who are on the move; and 3) to devise a comprehensive strategy at the national, regional, and international levels. This initiative began and developed in ways that could serve as a model for preventative action in other regions with troubled States.

The CIS Conference on Refugees and Migrants was held in Geneva in May 1996. It was an unprecedented and ambitious international gathering to consider preventative action that focused on promoting security within States as a necessary precondition for maintaining peace and security between States. It stands as a monument to the hard work, ingenuity, and good will of those who lead and staff the international organisations involved, coupled with the willingness among the peoples and governments most seriously at risk to cooperate in preventative action. But the weak links in the process once again proved to be the major Western nations whose rhetorical enthusiasm for this program greatly exceeded their

willingness to provide the modest financial and political backing to implement a very carefully developed set of principles and Program of Action.\(^{205}\)

Preparations for the May 1996 conference included two years of extensive consultations with countries and peoples throughout the CIS, with donor countries, and with groups of migration experts. During 1995, two rounds of subregional meetings were held in the Trans-caucasus and Central Asia, and a third involved Belarus, Moldova, and the Russian Federation. The first round reached agreements on defining categories of migrating persons, analysed the underlying problems motivating movements, assessed government responses, and began to address early warning measures, emergency preparedness, crisis management, and return and reintegration assistance. The second round discussed proposals, principles, and procedures for forging solutions that could be incorporated into the Program of Action. Special attention was given throughout this process to identifying and encouraging NGO participation, although such organisations barely existed in most republics of the former Soviet Union. Helping fledgling NGOs became a major objective of the Program of Action.

The principles endorsed by the Program of Action included commitments to uphold and implement all UN and OSCE agreements to protect human rights and refugees, and emphasised the importance of individual rights (such as freedom of movement and choice of one’s country of residence and nationality). States agreed to ensure that all people who were citizens of a previous State and were permanently residing on the territory of a successor State were granted citizenship. States committed to uphold and improve minority rights and the rights of formerly deported peoples and repatriates so that they could return to their ancestral homes.\(^{206}\)

The institutional framework of the program focused on national reforms and capacity building so that States would be better able to deal with internal problems while becoming capable


partners with other CIS members, donor governments, and international organisations. The operational framework emphasised the importance of participation and empowerment for local groups most seriously at risk. It also outlined short- and long-term assistance strategies that anticipated the full engagement of relevant international agencies to deal with emergency assistance, and the repatriation / return / settlement of displaced persons. The importance of NGOs in building confidence between ethnic and religious groups, and between these groups and governments, was emphasised with procedures outlined to assist the development and protection of fledgling NGOs.

The most hopeful element of the Program of Action is the chapter devoted to prevention. Criteria stipulated for preventative action are described as:

situations [that] range from violations of human rights (including the rights of persons belonging to minorities), and humanitarian law, communal tensions, and internal strife, to social and economic deterioration, environmental degradation and natural, technological, and environmental disasters, [and] internal and international conflicts.

And in language that suggests a growing recognition of the need for greater intrusiveness to deal with human security within States, the program further stipulates:

Since respect for human rights and humanitarian law is a matter of concern to the international community at large, and since population displacement has an impact on stability in the CIS countries, hence on peace and security, the prevention of such situations cannot be seen only as a matter of internal concern, but is of direct and legitimate concern to the international community as a whole. The active involvement of the international community, as well as of non-government organisations and other independent actors in the implementation of activities envisaged in this chapter is therefore warranted.

Strategies for preventing situations that could lead to population displacement included: monitoring and early warning, specific measures that would build on CSCE/OSCE protections already in place, and conflict resolution tools (for example, good offices, negotiations, inquiry, inquiry.

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mediation, and conciliation) for conflict within, as well as between members of the CIS and neighbouring States.\textsuperscript{210}

CIS countries and all other participating States and international organisations adopted the Program of Action. It did not contain binding legal obligations. Details of implementation were left for a four-year follow-up period. A steering group made up of government representatives was mandated to meet at least once a year to monitor the implementation of the program. During the first year, UNHCR and the International Organisation for Migration announced a number of initiatives that went beyond their traditional mandates. These initiatives would be carried out, in part, through new field offices that are planned to open in CIS countries that had not been previously represented. According to a May 1997 report by the Open Society Institute

In 1997, UNHCR intends not only to provide material assistance, but also to promote the drafting of appropriate legislation and conduct a public information campaign to raise tolerance levels. IOM, which concentrates on promoting both the integration and return of the displaced, also wants to under-take a variety of research initiatives.\textsuperscript{211}

During the first year, interest was generated at the grassroots levels throughout the CIS by the news of the UNHCR/IOM/OSCE initiative. Minorities at risk and displaced groups were encouraged to organise themselves and to seek very modest funding to participate in the Program of Action. Regrettably, the actual implementation of projects has lagged because of the lack of voluntary contributions from donor governments. In July 1996, the two operating agencies issued a joint appeal for 1997 funds totalling $59 million for UNHCR projects and another $29.5 million for IOM. Other programs in the budget included $14 million for small-scale income-generating projects to aid the displaced, $2 million for legal aid to those seeking protection, $1 million for education and media programs, and $1 million to spur local NGO activity. Other items include $5 million for direct assistance to migrant communities in Russia, and smaller amounts for Georgia ($2 million); Armenia, Azerbaijan, and Ukraine

\textsuperscript{209} Ibid., "Prevention," p.19.
\textsuperscript{210} Ibid., pp. 20-21.
(over $1 million each); Tajikistan ($500,000); and for each of the Central Asian countries except Uzbekistan (from $26,500 to $40,000).  

These are tiny sums, especially given the importance of preventing war in the CIS. Yet as of July 2, 1997, when the steering committee held its second meeting, the only major contribution to the joint appeal had been $14.1 million from the United States, Japan gave $205,000 in 1997, the only other major industrial power to do so. Switzerland earmarked $700,000 for Georgia and Chechnya, while the Netherlands designated $500,000 for Armenia, and the Scandinavian countries have made small contributions. The real scandal has been the niggardliness of the EU, which has given only $345,000, and that was restricted to use in Chechnya. Perhaps Europe has become complacent, once the flood of refugees they feared would come in 1989, and again in 1991, failed to materialise. Whatever the reasons, reports filtering out of the CIS are that highly promising attempts by local migrant and refugee groups to organise self-help projects at a cost of $10,000 or $15,000 each have gone begging.  

International NGOs have also been frustrated by this situation and are attempting to further promote the program. Several have undertaken their own initiatives, consistent with the program’s objectives. They are developing a data-base on NGOs interested in the CIS and held their own consultation on the Program of Action in New York on April 2, 1997.

The concluding section of this chapter offers no formula for building political will among those States with the means, and presumably the long-term interests, for supporting important new initiatives such as the CIS conference. Instead, it highlights several positive, if often overlooked, trends that can strengthen the legitimacy and capacity for preventative humanitarian action in ways that may eventually attract the support of the major powers.

**Building Constituents, Consensus and Capacity for Preventative Humanitarian Action**

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212 Ibid., p. 2.
214 *Forced Migration Monitor*, p. 3.
Much that has been recounted in this chapter is bound to be discouraging for those who believed the victors of World War II when they swore ‘never again’ would genocide be tolerated. The atrocities of the Khmer Rouge in Cambodia, the Serbs in Kosovo, and the Hutu of Rwanda revealed the hollowness of that pledge. Other failures, such as the US/UN debacle in Somalia and the current spread of ethnic violence throughout Central Africa, are also disheartening. And finally, the pathetic response of donor Governments to the CIS Conference on Refugees and Migrants when their worst short-term fears failed to come true does not bode well for the future of international order in one of the world’s most troubled and vital regions. Clearly, the readiness of States to declare their concerns about the security of people and respect for human rights within States is not matched by the political will, international capacity, or normative consensus that is required for action.

Signs of a changing mind-set abound today. Statements by the UN Secretary-General, the High Commissioner for Refugees, the Secretaries-General of the Organisation of African Unity and the Organisation of American States, the President of the World Bank, and a host of other representatives of other intergovernment organisations testify to a growing recognition that human rights abuse, mass displacement, and conflicts within States pose a cumulative threat to international peace and security among States. More and more, Governments are also willing to embrace these concerns in principle, but domestic and international inhibitions against intervention in the internal affairs of another State have deep political and historical roots. This is particularly so when the threat at issue is not primarily directed against their own national security, but the security of people within the ‘troubled State’.

The visionaries and framers of this post-Cold War debate are no longer the leaders of the major Western powers who were at the forefront of the international movement to create the United Nations system 50 years ago. Today, the Americans and the Europeans tend merely to badger the UN to cover for their own inadequate responses to massive human rights abuses and burgeoning complex emergencies, while simultaneously pressing for deep cuts in the funding and capabilities of these institutions that were created largely to serve their own best interests. Although these States remain the ultimate arbiters of issues affecting international peace and security they are no longer the architects of that peace. Today’s ‘grand-strategists’ of world order are not the most powerful States but still the largely powerless UN Secretaries-
General, the UN High Commissioner for Refugees, and a handful of others in multilateral institutions. They must come up with broadly acceptable approaches that will accommodate the conflicting interests of member States in ways that will advance the mission of these global institutions, while avoiding the pressures from States with special interests that could lead to more ‘missions-impossible’ (such as Bosnia, Somalia, Rwanda and Kosovo). Such failures not only undermine the authority and legitimacy of these institutions in other crises, but they paradoxically hurt their standing in the very countries that set them up for failure by demanding too much and paying too little. In a further ironic twist, as leaders of international organisations strive to develop the strategies and programs with regard to preventing and resolving complex emergencies, they turn more and more to NGOs for practical, political and indirect financial support.

Between the fall of the Berlin Wall in 1989 and the CIS Conference on Refugees and Migrants nearly seven years later, there has been little actual reform of international institutions. There has been much talk of reform, but few clear actions. The most important changes have been in the scope and nature of tasks assigned to international organisations, especially UNHCR and UN peacekeeping operations, as a result of politically forcing circumstances in Bosnia, Kosovo and elsewhere. Further changes may be forced by new crises that could occur at any time in troubled countries such as Nigeria. At some stage, the West’s political will to take preventative action may change. It will feel the cumulative effects of the bitter and expensive lessons of too little too late. The result may finally be the authority and resources international organisations need to respond to these crises.

In the meantime, four less dramatic developments that favour earlier preventative humanitarian action are worth noting and encouraging. The first is a function of the UN’s financial straits and the pressures to reform and consolidate operations. Although the current budget crisis is regrettable and is primarily a result of peculiar US domestic politics, it could result in changes conducive to prevention even though humanitarian agencies are not the primary target of the UN’s main critics. Secondly, the exemplary behaviour and prevention advocacy by Governments such as Norway, Canada, the Netherlands, Australia and several others, who are among the UN’s most devoted supporters, are quietly striving to reform and reinvigorate the international institutions required for preventative action. Third, as non-
government organisations are increasingly caught up in the horrors of complex emergencies, they are becoming important advocates and agents of preventative action. Finally, a new generation of leaders in countries with greater political and economic stakes in the conditions of human security in other States may be more inclined than their predecessors to shift the balance of sovereign rights and obligations toward promoting and protecting human security, a trend that was evident for the first time among most of the African leaders when they met at the 1997 OAU Summit in Harare.

**Linking Prevention to UN Support for Humanitarian Relief and Human Rights**

Most of the debate and resources for strengthening the UN’s capacity for humanitarian action has focused on 1) *emergency response* - quickly raising and deploying resources to deal with whatever crises occur; and 2) *sustaining the engagement* - serving the needy until refugees can return and until a ‘troubled State’s’ reconstruction, reconciliation, and development are successfully under way. Major reforms as to how the UN handles its humanitarian responsibilities have been made, or are proposed. A central concern of this thesis is whether these changes will enhance the UN’s ability to prevent the outbreak of these crises in the first place.

The 1991 Kurdish refugee crises in northern Iraq revealed the UN’s inadequate emergency response capability and the inability of the UN to coordinate such a large and complex operation. As a result, the General Assembly called for the appointment of an emergency relief coordinator to launch such efforts with the help of a new fund-raising program (the Consolidated Appeal Process), a Central Emergency Revolving Fund, and the advice of a new Inter-Agency Standing Committee (IASC). In 1992, the then Secretary-General Boutros-Ghali created a Department of Humanitarian Affairs within the UN Secretariat to support the coordinator and, among other tasks, become an integral part of the Secretary-General’s efforts to give operational meaning to preventative diplomacy in the post-Cold War era.216

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215 See, for example: *Healing the Wounds*, a report of the second conference sponsored jointly by the United Nations High Commissioner for Refugees and the International Peace Academy, 30 June-1 July 1996.
Skyrocketing demands for humanitarian relief, the effectiveness of UNHCR, and the preference of donors to rely on UNHCR, resulted in that agency assuming more and more operational responsibilities, plus the coordination, early response and advocacy functions. In Bosnia, it was designated the ‘lead’ humanitarian agency and by the mid-1990s there appeared to be growing support within the international community to designate UNHCR as the ‘lead’ agency for all humanitarian operations.\textsuperscript{217} There were several risks for UNHCR if it were to become an ‘all-purpose’ relief provider, particularly when most of the seriously affected people are caught in the crossfire of a civil war, as happened in Bosnia and Rwanda. Among the criticisms of UNHCR becoming the ‘lead’ agency, voiced by many within the agency, was a fear that it would be pressed to take on missions beyond its competency and would compromise its original protection mission - a dilemma highlighted earlier in this chapter - when relief workers found themselves only able to feed but not defend the security of the internally displaced in Bosnia, Rwanda and elsewhere. UNHCR should not, it was argued, become merely a surrogate for governments who are unwilling to intervene themselves and that want a UN agency to fill a political vacuum in ways that undermine UNHCR’s ability to act impartially in carrying out its main mandate. Moreover, within the UN system, elevating UNHCR to ‘lead’ agency, to coordinate those inter-government and nongovernment organisations with which it has often come into conflict over resources and roles, would further exacerbate inter-agency rivalries.\textsuperscript{218}

In July 1997, Secretary-General Annan proposed the dissolution of the Department of Humanitarian Affairs (DHA), but did not designate UNHCR as the ‘lead’ agency. Instead, he advocated dispersing the operational responsibilities that DHA had accumulated to other agencies and revitalising the Office of the Emergency Relief Coordinator in New York (to be renamed UN Humanitarian Assistance Coordinator) for three core functions:

1. Policy development and coordination in support of the Secretary-General, ensuring that all humanitarian issues, including those that fall in gaps of existing mandates of agencies such as protection and


\textsuperscript{218} Ibid.
assistance for internally displaced persons, are addressed. It is also important that there be
communication between the Departments of Peacekeeping Operations and Political Affairs, the UN
Development Group, and the Office of High Commissioner for Human Rights;

2. Advocacy of humanitarian issues with political organs, notably the Security Council; and

3. Coordination of humanitarian emergency response mechanism is established, through IASC
consultations, on the ground.\textsuperscript{219}

The implications of these reforms is promising for prevention. The expanded role for the High
Commissioner for Human Rights would open the way for more effective early warning and
response, something that High Commissioner Ogata has been calling for to help lessen the
burdens on UNHCR. Shortly after becoming High Commissioner in 1991, she declared ‘the
dimensions of today’s refugee issue demand that it be placed in the … wider context of human
rights’.\textsuperscript{220} Each year she has addressed the UN High Commission for Human Rights and urged
that it assume a more active role warning about human rights problems that could precipitate
new refugee flows and that it do more to help protect refugees, asylum seekers, the internally
displaced, and returnees, from further human rights abuse.\textsuperscript{221}

When the 1993 UN World Conference on Human Rights in Vienna finally agreed to support
the creation of an Office of High Commissioner for Human Rights, it opened the way for
developing a more balanced partnership between the UN’s humanitarian and human rights
wings. Governments, however, were reluctant to equip the High Commissioner’s office with
more than a tiny staff and a budget of less than $1,000,000. The Centre for Human Rights in
Geneva, which does have a staff of more than 120 and a budget of some $20,000,000,
remained independent of the commissioner’s office and merely continued to conduct
academic research.

\textsuperscript{219} United Nations, “Renewing the United Nations: A Program for Reform,” Report of the Secretary-General,
\textsuperscript{220} Quoted by Roberta Cohen in \textit{Refugees and Human Rights}, p.1
\textsuperscript{221} All of High Commissioner Ogata’s statements before the Commission on Human Rights can be found at the
When the first Human Rights Commissioner, Jose Ayala-Lasso, resigned suddenly in early 1997, Secretary-General Annan seized the opportunity and appointed the dynamic and widely respected former President of Ireland, Mary Robinson, as his successor. The Secretary-General then announced that he would embark on a diplomatic campaign to attract sufficient voluntary contributions and political support to provide Commissioner Robinson with the means to engage Governments more actively and quickly with programs to mitigate human right abuses. And in his July 1997 report on UN reform he noted that ‘Governments increasingly recognise that respect for human rights ... is a condition for political stability and socioeconomic progress,’ and declared:

An analysis of developments and trends in the area of human rights should be incorporated in the early warning activities of the organisation; human rights are an essential element in peace-making and peace-building efforts and should be addressed in the context of humanitarian operations.

Secretary-General Kofi Annan informed the General Assembly that he was consolidating the Office of the High Commissioner and the Centre for Human Rights into a single office and pledged that:

The Office of the High Commissioner would assess the work carried out on human rights issues in the Executive Committees [of all UN agencies] and would regularly participate in every stage of the Organisation’s activities in relation to actual or potential conflicts or post-conflict situations.

In the past two years, there have been more than 30 special rapporteurs, representatives, and expert groups to look into the human rights problems of member countries. The Secretary-General has further proposed ways to strengthen the UN’s technical assistance in areas such as support of legislative and judicial reforms, election monitoring, research and analysis of human rights problems, and early-warning capabilities to prevent conflict and complex emergencies.

224 Ibid., p. 55.
Several other steps the author suggests that could improve the operations of the UN High Commissioner for Human Rights are:

- Provide High Commissioner Robinson with a special contingency fund, such as the one that was created through voluntary contributions in 1991 for Commissioner Ogata, which would allow the flexibility and quick response necessary to deploy special rapporteurs and fact-finding teams to investigate reports of human rights abuse. These teams could work with Governments and NGOs to alleviate these problems, while simultaneously providing other UN offices and interested Governments with assessments and ‘watching briefs’ on a potentially ‘troubled State’.

- For routine monitoring, early warning and response, the High Commissioner could appoint Deputy High Commissioners for all regions to serve a function pioneered across Eastern Europe and the CIS by the OSCE’s High Commissioner on National Minorities, Max van de Stoel. For very little money - less than $1,000,000 annually plus a privately supported foundation that assists with research and analysis of minority problems - van der Stoel has performed countless preventative actions. The UNHCHR needs such a regular field presence around the world, and in carrying out its monitoring and early warning functions it could draw extensively on the local and international NGOs already operating in countries of potential trouble. These NGOs are often reluctant to protest openly about local human rights abuses for fear of harassment, arrest, or expulsion by local authorities. Yet they would likely confide in and welcome the international presence of a representative of the UN High Commissioner.

- The UN Secretary-General could appoint Mr Francis Deng to be his representative on internally displaced persons, as recently recommended by the UN Commission on Human Rights. The position is voluntary and run out of the Brookings Institute in Washington. It has no operational authority and few resources, and no UN office or staff, except for contract workers and staff provided by Norway, who are all based at the Centre

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225 Roiberg and Weiss, *From Massacre to Genocide*, pp. 149-168.

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for Human Rights in Geneva. 226 With tens of millions of imperilled IDPs globally, Deng has travelled the world in an effort to draw attention to the plight of the internally displaced. Prior to his appointment, there was no systematic reporting and monitoring of the protection needs of the IDPs and no international official was charged with raising their problems with governments, or with international agency and development agencies. Clearly, a high priority for the UNHCHR should be a substantial upgrading of this Office. Indeed, several immediate steps that were recommended nearly two years ago by a Brookings-Refugee Policy Group project include: 1) strengthening the representative’s mandate so s/he can deal more effectively with Governments that have serious IDP problems but seek to avoid scrutiny; 2) empower the Office to issue statements and reports on an 'as needed basis,' rather than through annual General Assembly reporting; 3) expand the position to full time, with a much larger contingent of support staff; and 4) greatly strengthen the role and the representative’s links with the Inter-Agency Standing Committee’s Task Force on IDPs that was created in 1992 with the co-operation of the major UN humanitarian and development agencies, plus key NGOs. 227

- Integrating the Office of the UNHCHR, The Centre for Human Rights, and the UN Secretary-General’s Representative for the Internally Displaced could greatly improve the capacity of all three. The Centre’s role should be fundamentally changed from a law research facility to a facility that gathers and analyses data on human rights abuse, the conditions of refugees and the internally displaced. The Centre should also develop a data base of historic and current case studies of human rights abuse that might generate policy relevant insights about the links of this abuse to population flight, rising violence, and war. Developing the analytic tools and information for risk analysis and contingency planning would be a valuable asset for not only the UNHCR, but also UNDP, UNICEF, other agencies, and the Secretary-General. Although such work will inevitably encounter political opposition from some members, it could be financed through voluntary

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contributions and ride a wave of rising international acceptance of human rights abuse as an early warning of war.

- Human rights operations of a strengthened UNHCHR could be better integrated with the work of the UN Secretariat and the Security Council, as well as more effectively linked to UNHCR and the other agencies concerned with humanitarian action. If the Secretary-General is to engage actively in preventative diplomacy, s/he will need a greater capacity to initiate fact-finding and other missions allowed under Article 99. His/her ability to deploy personal envoys and special representatives should be improved to help Governments and minorities at risk to find political rather than violent solutions to their problems. A recent report to the Carnegie Commission has outlined a number of ways to improve this important tool of preventative action. The monitoring and early warning functions by a much-improved UNHCHR could inform and help trigger the deployment of personal envoys of the Secretary-General. To ensure that human rights become an integral part of all UN peace operations, the Security Council could earmark funds for this purpose whenever they mandate Chapter VI peacekeeping or Chapter VII peace enforcement.

- And sixthly, the integrated operations of the UNHCHR could undertake a major public education campaign on behalf of human rights, emphasising not only the moral imperative but the importance of human rights abuse as an early warning of potential war, and human rights protection as a vital element in the prevention of such war.

**UN Activists States: The Case of Norway**

Following a burst of US/British-led cooperation to reverse the aggression of Iraq in 1991 and 1998, neither Washington nor other major Western capitals have been willing or able to infuse the UN with the mandates and resources to deal with threats and acts of aggression within ‘troubled States’. This has resulted in a rash of complex humanitarian emergencies and wars.

While the United States has continued to withhold its financial commitments and attempts to unilaterally dictate fundamental changes in how the UN operates, most Security Council permanent members have become distracted and divided. This behaviour of the US offends its friends, bemuses its adversaries, and contradicts enlightened self-interest. Meanwhile, the leadership vacuum has been partially filled by the determined diplomacy of about 20 UN ‘activist countries’. Operating both independently and through *ad hoc* coalitions, the cumulative effect of the UN activists has helped the UN and its specialised agencies to develop the capability and political power to address the problems of ‘troubled States’ in ways that are consistent with the broad internationalist outlook of the UN’s founders.

The activist States include several Scandinavian countries, smaller West European, Latin American, and Asian countries, plus Canada, Australia, South Africa, and New Zealand. Their efforts appear to enjoy broad support among their people. The most economically developed UN activist countries are also among the highest per capita donors of foreign economic aid. This, coupled with their strong support for the UN, makes them particularly influential among the low and middle income developing countries that comprise the vast majority of UN members. As the UN struggles with such sensitive issues as human rights, humanitarian intervention, democracy building and peace enforcement, these activist countries frequently provide the crucial voluntary financial contributions and key personnel to help the UN address these challenges. Mostly, however, the good efforts of the UN activists have been overlooked by the Western media, which plays a disturbingly large role in shaping world public opinion.

The breadth and depth of engagement by the score of UN activist countries is truly remarkable. Norway is an example of how a small but diplomatically active country of only 4,000,000 people can help push the UN in the directions of concern to this thesis. Norway has always been a leading contributor to UN peacekeeping, and by 1996 more than 1% of all Norwegians were veterans of at least one UN operation. In honour of the UN’s 50th anniversary, the then Prime Minister Gro Harlem Brundtland announced a special $5,000,000 multi-year contribution to establish an unencumbered contingency fund for preventative action that would be used at the discretion of the Secretary-General to investigate and attempt to peacefully resolve developing conflicts.
During the 1990s, Norway has also greatly expanded its role in human rights, humanitarian action, election monitoring, and support of confidence-building measures between antagonistic States. All of these actions are justified, both at home and abroad, in the prevention of war. Furthermore, the contributions come primarily from Norwegian non-government organisations, with the strong backing and substantial financial support of the Norwegian Government. The unusually close working relations among NGOs, political parties, and government public servants has been called "corporatism", in contrast to the United States where NGOs are far more numerous, but operate independently of each other and of the Government. The Norwegian example, however, is more typical of UN activist countries and allows Oslo to mobilise the people and resources to respond quickly and substantially to the needs of international agencies that are engaged in preventative action. UNHCR has been a major beneficiary. To quote correspondence from High Commissioner Sadako Ogata to the Carnegie Commission:

Building on the success of the secondment of Norwegian staff to assist UNHCR following the large-scale exodus of Kurdish refugees from Iraq in the spring of 1991, UNHCR formalised the association through an emergency staff standby arrangement. Under this agreement, Norway has provided 170 staff since 1991. They have performed important functions as field officers, telecommunications officers, logistics officers, and base camp managers. The Norwegian staff, drawn from a roster managed by the Norwegian Refugee Council, has assisted in emergency operations ... in a total of 17 countries.  

The Norwegian Refugee Council (NRC) maintains a large standby force that can be deployed quickly for both relief and human rights work. In recent years, the NRC has greatly expanded its human rights monitoring, the results of which are fed directly to the Norwegian Foreign Ministry, as well as to local authorities. Human rights work also increasingly includes election monitoring. The NRC blends human rights and election monitoring in a process that can begin, as in Cambodia, more than a year before the actual elections. Elsewhere, the NRC has monitored human rights abuses in refugee camps and it has had observers in the West Bank to

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ensure human rights are not abused during the Middle East peace process. Repeated outbreaks of violence, despite the presence of NRC observers, show the limits of observer influence, but where NRC monitors are present the levels of mass violence appear to be lower than elsewhere. Although critics of preventative action may not be persuaded by the counterfactual analysis, there is strong and growing support for such efforts among Norwegians and other UN activists.

As demands for human rights and election monitoring grew, the Norwegian Resource Bank for Democracy and Human Rights (NORDEM) was formed in 1991. NORDEM links human rights with the growing need for election assistance, in ways that often build on the prior work of the NRC in bridging human rights and humanitarian action to help restore peace and protection for the most vulnerable in any dispute. NORDEM, like the NRC, draws on a reservoir of stand-by volunteers. The Norwegian Ministry of Foreign Affairs helps identify needs and channels NORDEM's efforts. These have included a variety of low-cost projects in support of constitution drafting and reform, assessment of judicial systems, and basic training for organising and operation elections. Thus, NRC and NORDEM, with strong political and financial support from the Norwegian Government, have become archetypal examples of preventative action and capabilities.

Other large Norwegian NGOs also contribute to both human rights monitoring and humanitarian assistance. Norwegian Church Aid (NCA), Norwegian Peoples Aid (NPA), Norwegian Save the Children (NSC), and the Norwegian Red Cross (NRC), are four prominent examples. To enhance the effectiveness of human rights reporting, particularly in wars, these NGOs cooperate closely in sharing information and deciding who will speak out most loudly and thereby bear the risk of offending those responsible, which could result in expulsion. In this way, Norwegian NGOs are able to maintain a presence that many believe is the key to protection and prevention.

As I have shown earlier in this thesis, there can be deep moral and institutional dilemmas between human rights activists and those whose primary task is the delivery of humanitarian

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relief. There are also circumstances where difficult trade-offs between peace and justice cannot be avoided. Yet in a world of proliferating wars there is clearly an urgent need to try to resolve such dilemmas. Within a commonly held strategic framework that has ‘preventing further bloodshed’ as its central concern, a division of labour among NGOs and concerned governments is possible, as Norwegian engagement in numerous wars demonstrates.

The Norwegian experience also points to broader lessons. In ‘troubled States’, NGOs enjoy comparative advantages in access, flexibility, and impartiality for undertaking preventative action that foreign Governments are unable to match. Norwegian NGOs have become an important instrument of their government’s foreign policy and they are significant actors in their own rights. In this case, they illustrate how Norway, a UN ‘activist’ State, gains greater reach and effectiveness internationally in pursuit of its long-term enlightened self-interest. When considering international developments that carry positive implications for human rights, humanitarian relief and preventing war, the rapidly growing scale and influence of NGOs around the world is a significant feature of the post-Cold War era.

**Non-Government Organisations**

One indication of the growing importance of NGOs in world affairs is Kofi Annan’s reference to them in his Program for UN Reform (July 1997). Under the heading ‘Civil Society’ he notes how NGOs are shaping national and international agenda in a post-Cold War world defined by ‘two interlocking processes: the quest for a more democratic, transparent, accountable, and enabling governance and the increasing preponderance of market-based approaches to national and global economic management’.  

He goes on to declare:

Virtually no area of UN involvement, either at the policy or operational level, has been left unchanged by this process. Overall, civil society’s increasing influence is contributing to a process of enlargement of international cooperation and spurring the United Nations system and other intergovernmental structures toward greater transparency and accountability and closer linkages between national and international levels of decision-making and implementing. NGOs and other civil society actors are

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perceived not only as disseminators of information or providers of services but also as shapers of policy, be it in peace and security matters, in development or in humanitarian affairs ... [therefore] the Secretary-General is of the view that the Organisation needs to review and update the ways in which it interacts with civil society .... 233

To strengthen the UN's ties with NGOs, the Secretary-General has pledged that 'all substantive departments of the UN will designate an NGO liaison officer to facilitate access by civil society to the UN. At the country level ... the UN system should create more opportunities for tripartite cooperation with governments and civil society'. 234 This may not sound like a revolution, but for an intergovernment organisation that, in principle, only deals with sovereign governments, it reflects a recognition by the Secretary-General that the UN's own best interests will be served if it builds relationships with politically and economically influential actors that operate above and below interstate relations.

NGOs are not easy partners to work with. They are often fiercely independent and act without accountability. 235 They also may hold political and ideological views that can change and sometimes conflict with governments and international organisations. They are able to engage more quickly and flexibly than governments or international organisations, in part because they are willing and able to bend or circumvent many traditional diplomatic conventions and other obstacles to such involvement. Their access to local communities often allows them to be much more aware of the early warning signs of trouble than are foreign embassies that may be in a capital city hundred of miles away from the sites of action. Their reports of a worsening situation can be valuable in triggering more substantial interventions by governments and international organisations.

Just as the UN and its member Governments are discovering a need for NGOs to advance their interests, so too are NGOs increasingly requiring official support and protection, particularly when wars threaten or are under way. NGOs may be close to the action but they are also often most vulnerable to harassment and expulsion if they are judged to have offended local authorities. They have no diplomatic immunity and can become the targets of

233 Ibid., p. 58.
234 Ibid., p. 59.
warring factions, as has occurred recently in Kosovo, Bosnia and Central Africa. This growing interdependence between NGOs and governments and international institutions is still quite new and may be difficult to sustain. Mutual suspicion between the two sectors remains and they can have intense conflicts of interest over whether and how to deal with a ‘troubled State’. On balance, however, NGOs are potent allies of the UN and governments for preventing and alleviating conflicts within States.

NGOs are diverse and difficult to define. They are most abundant in the advanced Western democracies where they are the sinews of civil society, making up for the shortcomings and restraining the excesses of Governments and free enterprise. As the Norwegian example shows, and as is confirmed by a comparative study of the role of NGOs in 13 OECD countries, NGOs size and influence can vary greatly both at home and abroad.236 The Union of International Associations lists more than 15,000 NGOs that operate in three or more countries and that draw their finances from sources in more than one country. The number of NGOs is growing rapidly.237 Forty-one NGOs were granted consultative status to the UN in 1948, 377 by 1968, and more than 1,200 by 1997.238

The United States has more than 1,000,000 non-profit organisations with a combined income of over $400 billion that employ some 8,000,000 people. On a per capita basis, other democratic nations also make huge commitments to the independent sector: 170,000 registered charities in England and Wales, with an income of over $7 billion; 700,000 non-profit associations in France that employ 4 percent of the national labour force; 200,000 organisations in Sweden that claim a total of 31,000,000 members, which suggests multiple memberships by that country’s citizens; and in Canada $62 billion passes through registered

235 Rothenberg and Weiss, From Massacres to Genocide, pp. 179-189.
236 Ian Smillie and Henry Helmich, eds., Non-government Organisations and Governments. The 13 case studies are Australia, Canada, France, Germany, Italy, Japan, the Netherlands, Norway, Spain, Sweden, Switzerland, the United Kingdom and the United States. (Paris: OECD, 1997)
238 Renewing the United Nations, pp. 57-58.
charities, nearly 13 percent of the country’s GNP in 1993, which employ 9 percent of the labour force.\textsuperscript{239}

Only small proportions of Western NGOs are active internationally, but the total figures suggest the potential for mobilising public support for humanitarian intervention. In the United States, although only about 600 NGOs with budgets in excess of $1 million per year operate abroad, their combined expenditures of over $11 billion in 1996 is nearly 15 times greater than the US government spends for its Continental Development Fund for Africa. In addition, the number and size of these NGOs is rising. During the decade prior to 1995, the number of humanitarian and development agencies registered with the US Foreign Assistance Agency jumped 240\% to a total of 434. An estimated 40,000,000 people donate money to these groups annually, a potentially huge political constituency for humanitarian and other international actions.\textsuperscript{240}

Abetted by the revolution in communications and information technology, internationally active NGOs are weaving their own worldwide networks that operate largely beyond the reach of Governments, while generating political and social forces that few Governments - least of all the ‘leading’ democracies - can ignore. Moreover, the heads of international organisations are turning more and more to NGOs for political and economic support in carrying out difficult mandates and in lobbying the Governments that determine those mandates. The biggest international NGOs, and the ones of greatest interest to the UN’s humanitarian agencies are the handful of humanitarian and development organisations such as CARE, Save the Children, Catholic Relief Services, and World Vision, each with budgets in the hundreds of millions of dollars and with thousands of staff around the world. Less conspicuous are two other categories of NGOs involved in early warning and conflict prevention roles of interest to the UN and its humanitarian and human rights agencies.\textsuperscript{241}

\textsuperscript{239} Ian Smillie, \textit{The Alms Bazaar: Altruism Under fire - Non-Profit Organisations and International Development} (Ottawa: International Development Research Centre, 1995).
Advocacy organisations, such as Amnesty International, the US Committee for Refugees, and United Nations associations comprise a second group of NGOs with strong interests in preventative action. Although advocacy groups claim barely one percent of funding for NGOs, they have considerable influence and contribute to public policy debates on virtually all major issues in open societies around the world. The most dramatic recent example of their influence was the worldwide mobilisation of pressures that led to the Ottawa inter-government agreement to ban land mines in 1997. In addition to their influence on particular issues, several of the large advocacy NGOs publish annual global surveys on the status of human rights, refugees, military expenditures, and violent conflicts that have become the common reference points for the media, governments, other NGOs, and anyone else with an interest in preventing war.

The third category of NGOs is the smallest, but also the one most directly engaged in conflict prevention and management, - the so-called Track II efforts that have had some success clarifying differences and reaching non-binding agreements that can become the basis for more formal UN and other inter-government talks. Notable examples of this are the Community of Sant’Edigio, which launched a successful peace process in Mozambique, and the Kettering Foundation’s Inter-Tajik Dialogue that by mid-1997 had convened 19 rounds of confidence-building workshops for the main factions in the Tajikistan domestic war. Both initiatives helped pave the way for UN-sponsored talks and the prevention of recurring war.

In recent years there has been an explosive, although uneven, growth of NGOs in developing and former Communist countries. In some cases, notably South Africa and much of Latin America, NGOs are relatively well established, although civil society is still very thin and fragile throughout the new States that were formerly part of the Soviet Union. Organisations in all of these countries can, often with financial and technical assistance from NGOs abroad, help prevent conflict in local communities before they spark or exacerbate national crises. Examples include the network of grassroots efforts to prevent conflict between Hungarians and Romanians, organised by the Project on Ethnic Relations of Princeton, New Jersey; a German Marshall Fund-supported series of village dialogues in the Czech Republic aimed at easing tensions between Czechs and the Roma minority; the work of the Presbyterian Church
to resolve disputes over grazing and water rights between local communities in war-torn south Sudan; the Lutheran World Relief training programs in conflict prevention and resolution involving peasants and agricultural extension workers in Nicaragua; and the Palestinian Centre for Rapprochement between People, which promotes dialogue between Palestinians and Jews.\(^{242}\) In South Africa a rapidly expanding and diverse community of internationally nurtured indigenous NGOs, which were created during the final two decades of apartheid, helped build the political foundation for a peaceful transition to majority rule and avoided what could have been a horrific complex emergency.\(^{243}\)

Although most governments and international organisations recognise NGOs as legitimate and influential actors in world affairs, the Norwegian example of a public/private partnership in humanitarian action remains exceptional. Most NGOs define themselves as independent of, and often in opposition to, governments - even though many depend at least partly on government funding, support and subsidies. There is no agreed international political framework to enable NGOs, Governments and international organisations to collaboratively plan for the prevention of and response to complex emergencies.\(^{244}\) The inclusion since 1992 of NGO representation on the UN's Interagency Standing Committee, which is chaired by the emergency relief coordinator, was a major early step towards institutionalising cooperation between the UN and NGOs, cooperation that has already gained operational significance in successive crises.

Cooperation remains difficult, however, for several reasons. First, the imperatives for these three groups to work together are quite new. Prior to the 1990s, Governments viewed NGOs as little more than contract workers for disaster relief and technical assistance. Second, there is still intense competition among NGOs for funding, access and policy influence. Third, the unpredictability and diversity of complex emergencies discourage joint planning and favour ad hoc arrangements among coalitions of those concerned. Coordination among NGOs, donor

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\(^{244}\) Andrew Natsios, “NGOs and the UN System in Complex Humanitarian Emergencies: Conflict or Cooperation?” in Weiss and Gordenker.
governments, and UN agencies has nevertheless become a popular theme for international conferences.\textsuperscript{245} The UN, NATO or any other body, obviously cannot impose whatever emerges from such efforts; it can only be achieved voluntarily as a function of mutual interest.

Preventing complex humanitarian emergencies and the wars that generate and sustain them will require more than reform of the UN, and activism of a few influential governments, and legions of NGOs. \textit{Political leadership, above all, is needed to develop and defend a compelling rationale for intervention}. Governments remain reluctant to take preventative action, especially when this requires intervention in the internal affairs of another State. Interests in preventative action diverges within and between those with the capacity to intervene, and there is no agreed formula for sharing the costs and political risks. In Stanley Hoffmann’s view, ‘There simply is, at present, no international consensus on the need to act preventative against States that use their sovereign rights to pursue policies dangerous for humanity’\textsuperscript{246}

\textit{In the mid-1990s such leadership was in particularly short supply among the United States and the other major powers that were domestically challenged and appeared to have lost their international bearings}. Considerable international disorientation is also evident amongst developing countries as they continue to gather periodically under the anachronistic banner of the ‘Non-aligned Movement’. \textit{Despite the reluctance of many governments to redefine their post-Cold War interests in ways that would make preventative action compelling, there are signs that some political leaders in troubled regions, and in international organisations, are prepared to give greater priority to supporting human rights and democratic values as a way of reducing the risks of war.}


New Voices in Africa

Governments in Africa are beginning to address the domestic problems of troubled States. This might seem unsurprising in a region that has been so badly scarred by ethnic conflicts and the suffering of millions of internally displaced refugees. African States, however, are among the world’s most vociferous defenders of sovereign rights. For nearly four decades African leaders have been nearly unanimous in calling for international respect for the territorial frontiers that they inherited from their former colonial masters. Except for the post-Cold War secession of Eritrea from Ethiopia, the patchwork of 53 new territorial units has remained unchanged since the imperial era. Despite the recent international outcry over alleged severe human rights abuses to large numbers of refugees in the Democratic Republic of the Congo, the new government of Laurent-Desire Kabila has demonstrated that the demand for respect of sovereignty still can keep outsiders effectively at bay.

Nevertheless, old and overly rigid regional norms of sovereignty appear to be giving way to a new political consensus. In June 1993, at the Organisation of African Unity summit in Cairo, the OAU Central Mechanism for the Prevention and Management of Conflict was established with three elements: a central organ of 16 States that rotate annually to convene on short notice to decide when, where, and how to intervene in a burgeoning crises; an executive secretariat to staff the central organ; and a conflict management division based at OAU headquarters in Addis Ababa.²⁴⁷ Although this was not the African peacekeeping force that the most enthusiastic backers imagined, the mechanism has taken root and received several million dollars of support from both the United States and West European donors. In its first two years, so-called ‘preventative diplomatic missions’ were sent to Somalia, Liberia, and Burundi.²⁴⁸

By mid-1997, the conflict management division had developed its own early warning system, based on some 120 variables and reasonably extensive continent-wide information and

intelligence gathering procedures. The central organ of 16 States convened to decide how to respond to acute problems in troubled States, such as sending special envoy Mohammed Sahnoon to try to prevent an escalation, and mediate an early resolution, of the Republic of the Congo (Brazzaville) conflict. When there are less dramatic signs of trouble, such as reports of extreme human rights abuse, military buildups, or the forced displacement of people, the Secretariat reportedly has at least been able to summon the ambassadors from the country at risk and has threatened to ‘go public’ with the OAU’s concerns if local problems are not resolved peacefully and fairly.

There is, however, much international and regional scepticism about the OAU’s capacity to undertake conflict prevention and resolution. The Organisation has been little more than a rarefied debating forum for autocrats during much of its life and member States have, for the most part, not paid their assessments or sent their most capable people to staff the Secretariat. Its few attempts at peacekeeping, notably in Chad in 1992, were not successful. Even its recent and promising efforts at preventative action, such as the deployment of 65 peace observers in Burundi, lacked essential radio and other equipment and was poorly organised.

More muscular subregional military efforts condoned by the OAU - notably the West African peacekeeping and peace enforcement operation (ECOMOG - the ECOWAS Monitoring Group) in Liberia - have also been fraught with operational difficulties and allegations of misconduct. In addition, the actions by Rwanda and its Central African allies to back insurgent forces in Eastern Zaire, with widespread evidence of continuing atrocities noted earlier in this chapter, are reminders that there are also a number of leaders capable of aggressive cross-border military actions that ignore or reject OAU or UN involvement.

Despite this mixed picture, an historic transition in regional security affairs is under way in Africa that could foreshadow the emergence of new norms and capabilities for preventative action. Wars are giving way to reconciliation and nation building in South Africa, Mozambique, Uganda, Ethiopia, Eritrea, Namibia and the Congo. The old guard of autocrats, who remain the staunchest defenders of absolute sovereignty, are gradually being displaced by more democratic regimes led by advocates of human rights and humanitarian action. This is stemming the force of fragmentation around the continent.
Among the new voices of reason that resonate across the region and beyond, those from South Africa carry special weight. Deputy President Thabo Mbeki, for example, speaks often of an ‘African Renaissance’ that is full of hope for preventative action.

There are problems that have afflicted the African continent for some decades, great political instability in many countries, one-party States, military coups, internal conflicts, leading to the large number of refugees ... We must, as Africans, take our destiny into our own hands ... I believe that the notion of renewal, or rebirth of the continent, requires that we must address the question of national sovereignty because the reality is that instability in, for example, the Democratic Republic of the Congo, would have an impact on the rest of Africa, including a country as far away as South Africa. I think it requires the development of a continental consensus. That means that the OAU should be able to say, for example, [that] there is trouble brewing in South Africa and we are concerned about that.\textsuperscript{249}

Those who share Mbeki’s views were given strong encouragement by UN Secretary-General Kofi Annan in a remarkable address to African heads of State during their June 1997 OAU summit in Harare, Zimbabwe. With pointed candour that was unprecedented for a Secretary-General addressing member governments, Annan identified some of the key domestic political ills that can lead to war. He began by describing modern African history as a series of three waves, and ended with a note of hope about the future. The heart of the matter, he stressed, is the need to curb military rule and respect human rights.

First came decolonisation and this struggle against apartheid. Then came a second wave, too often marked by civil wars, the tyranny of military rule, and economic stagnation. I believe that a new era is now in prospect, Africa’s third wave ... of lasting peace, based on democracy, human rights and sustainable development ... The success of the third wave begins with a single and simple proposition - the will of the people. The will of the people must be the basis of governmental authority in Africa, the governments, duly elected, should not be overthrown by force...

Africa can no longer tolerate, and accept as faits accomplis, coups against elected governments, and the illegal seizure of power by military cliques, who sometimes act for sectional interests, sometimes simply for their own. Armies exist to protect national sovereignty, not to train their guns on their own people. Some may argue that the military regimes bring stability and predictability, that they are helpful to

economic development. That is a delusion. Look at the example of South America, where the militaries are back in their garrisons, democracy thrives, and economies soar.

Accordingly, let us dedicate ourselves to a new doctrine for African politics: Where democracy has been usurped, let us do whatever is in our power to restore it to its rightful owners, the people. Verbal condemnation, though necessary and desirable, is not sufficient. We must also ostracise and isolate putschists. Neighbouring States, regional groupings, and the international community all must play their part.

The success of Africa’s third wave depends equally on respect for fundamental human rights. The conflicts that have disfigured our continent have, all too often, been accompanied by massive human rights violations. I am aware of the fact that some view this concern as a luxury of the rich countries for which Africa is not ready. I know others treat it as an imposition, if not a plot, by the industrialised West.

I find these thoughts truly demeaning of the yearning for human dignity that resides in every African heart. Do not African mothers weep when their sons or daughters are killed or maimed by agents of repressive rule? Are not African fathers saddened when their children are unjustly jailed or tortured? Is not Africa as a whole impoverished when even one of its brilliant voices is silenced?

So I say this to you, my brothers and sisters, that human rights are African rights, and I call upon you to ensure that all Africans are able fully to enjoy them. Let us work together and with the United Nations to develop good governance and respect for the rule of law. When we succeed, Africa will have taken a great step forward.250

The UN Secretary-General can only exhort member governments. His use of the ‘bully pulpit’ in this way should, however, help shift the focus of political debate in Africa away from State rights and more toward human rights. It should also strengthen the hands of the growing and diverse coalition of multilateralists who are also calling for more effective multilateral preventative action: Sadako Ogata and other leaders within the UN, the score of activist UN member countries, and the growing legion of NGOs that are involved in all phases of humanitarian action. These multilateralists seem to have no illusions about the prevalence and interactability of deadly domestic conflict. Yet none are resigned to inaction. They share a common doctrine, not yet formalised, that holds intervention justified when domestic unrest

threatens regional and international security, and when serious violations of human rights occur.

**Conclusion**

A recurring theme in this chapter is the centrality of human rights to preventing war in the aftermath of the Cold War. If governments want to eradicate the plague of domestic political disasters that develop into complex humanitarian emergencies and threaten the foundations of regional and international order, they must develop the norms, political will, and international capacity to hold each other accountable for how they treat their own citizens.

On 10 December 1998, the United Nations marked the 50th anniversary of the Universal Declaration of Human Rights. Although Governments had little time to prepare for this event, they seized it as an historic opportunity to rekindle the vision of human rights held by the UN’s founders and imbued that vision with fresh practical relevance. Human rights in the aftermath of World War II represented more than a set of abstract ideas as an end in themselves. The extreme abuses of political and personal freedoms under Hitler’s Germany were seen, in retrospect, as the stark warnings of a potential aggressor. The drafters of the UN Declaration understood that a Government that abused the rights of its own citizens could just as easily abuse the rights of its neighbours. As was noted earlier in this chapter, however, there was no consensus about how to give this insight operational meaning and the declaration remains a statement of principles without any enforcement mechanisms. With the onset of the Cold War, human rights took on an ideological cast, primarily as a Western policy instrument in the campaign to contain and undermine Communism. Many Governments in developing countries found political advantage in this polarisation by denouncing human rights as an attempt by the Western powers to fuel domestic divisions, undermine their capacity to govern diverse societies, and to continue to dominate their former colonies. The 50th anniversary has rightly been seen as the occasion for reopening the broad issue of human rights abuse as an early warning of trouble and of the types of responses that are appropriate, necessary, and politically feasible.
Some governments will continue to oppose any effort to advance human rights, which they dismiss as ‘neocolonial’ Western interference in their domestic affairs. The 1993 Vienna World Conference on Human Rights revealed, however, that virtually all governments will go ahead with at least hortatory pledges to support the basic principles of the Universal Declaration. More important, the conference also confirmed that more and more governments seem genuinely committed to improving the rights of minorities, women, children and other vulnerable citizens as the right and necessary policies for achieving international acceptance and sustainable development. What the conference did not address, however, are the threats to regional and international security that are posed by those States that are unwilling or unable to deal with the most egregious human rights abuses, which are the precursors of refugee flows and war.

The general aims of the 1993 World Conference were to broaden awareness and acceptance of what constitutes human rights, to include social, economic, and cultural dimensions, as well as the political and legal protections, and to draw attention to the most vulnerable segments of any society. This was only the second global meeting on human rights since the adoption of the Universal Declaration, the first having been held in Tehran in 1968, and preparations for the Vienna meeting were very elaborate. They began in 1989 with the passage by the General Assembly of a resolution calling for a world meeting to review and assess progress made in the field of human rights since 1948. In the four years leading up to Vienna, the UN sponsored an ambitious series of planning meetings in Geneva, plus regional meetings in Tunis, San Jose and Bangkok. These were to develop a consensus for what became the Vienna Declaration and Program of Action.²⁵¹ Representatives of 171 States adopted these documents by consensus, which were subsequently endorsed by the General Assembly.²⁵²

The Vienna conference can claim major advances in getting governments to pledge their support for the rights of woman, children and indigenous peoples. The final document also emphasised, for the first time, the interdependence between human rights, development and democracy. The conference did approve creating a position of UN High Commissioner for

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Human Rights; however, as noted earlier in this chapter, there are no mechanisms for enforcement or agreements that include the leverage of reciprocal rights and obligations, such as trade or arms control agreements. Human Rights are still only the declared goals of States, there being no global means of accountability.

Preparations for the 1998 anniversary were less ambitious, but in the same vein as those in advance of Vienna. In 1995, the UN General Assembly called for ‘a dynamic partnership between Governments, UN agencies and programs and regional institutions, national institutions, academic institutions and nongovernment organisations’ in preparing for the 50th anniversary.253 The High Commissioner met with a group of NGOs on 13 December 1996 to discuss artistic events and publications, including suggestions to translate and disseminate the Universal Declaration into more languages. In addition, there have been experts meeting to devise recommendations for voluntary Government actions to protect and promote human rights, and meetings on the importance of economic development to create an environment conducive to human security and well-being.

Rather than attempting a reprise of the Vienna Conference, the UN Secretary-General and the High Commissioners for Human Rights and Humanitarian Affairs have used the occasion of the 50th anniversary to build political support for using the promotion of human rights as an instrument of collective security. Recalling the underlying concerns of the drafters of the 1948 Declaration, they have focused on the role of human rights as an early warning of situations where the domestic abuses of power could escalate into complex emergencies that threaten regional and international security. The purpose of the 10 December 1998 anniversary has not been to celebrate 50 years of progress in human rights, but rather to announce the start of new and different efforts to give the declaration operational meaning in preventing war, horrific war such as we have recently had in Kosovo and Rwanda.

If the 50th anniversary of the Universal Declaration were to focus on human rights abuse as an early warning of a potential crisis and as a criterion for international response, this would raise fundamental issues about the nature of the United Nations and the balance between the

253 UNHCR, “1998" 50th Anniversary of the Universal Declaration of Human Rights.”

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Charter's provisions for mandatory actions for collective security under Chapter VII and the guarantee of non-interference under Chapter I, Article 2(7). The Security Council first decided that severe human rights abuse posed a threat to international peace and security when Britain and the United States finally yielded to pressures from developing countries and their own peoples and joined a Security Council majority in imposing a comprehensive mandatory arms embargo against South Africa (1979-1994). Since the end of the Cold War, the Security Council has imposed mandatory sanctions to reverse, or at least prevent a worsening of, domestic crises in Rwanda, Haiti, Somalia, Liberia, Angola, and the former Yugoslavia. In all of these cases, actions were taken belatedly and with little or no immediate positive effect. Opportunities for early preventative action in response to the warnings of human rights abuse were ignored. These more recent lessons should inform the deliberations surrounding the 50th anniversary of the Universal Declaration.

Realistically, reaching a consensus on the criteria and mechanisms for linking human rights abuse to preventative action was unlikely in advance of this anniversary. UN leaders, in cooperation with concerned Governments and NGOs, however, used the special meeting of the General Assembly on 10 December 1998 as the political launching pad for developing a new consensus for integrating human rights criteria and assistance to all phases of UN peace operations, but with special emphasis on early preventative action and diplomacy.

The internal character of States has become a legitimate international concern that is no longer tied to Cold War ideological alignments. As Boutros Boutros-Ghali stressed in his 1992 An Agenda for Peace:

...The task of leaders of States today [is] to find a balance between the needs of good internal governance and the requirements of an ever more interdependent world .... If every ethnic, religious or linguistic group claimed Statehood, there would be no limit to fragmentation, and peace, security and economic well being for all would become ever more difficult to achieve. One requirement for solutions to these problems lies in commitment to human rights ... [which] should enhance the situation of minorities as well as the stability of States.255

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As noted at the outset of this chapter, between 1989 and 1996 there were 96 armed conflicts around the world and only five were between States; the rest were internal, and most reflected ethnic differences. These troubles are more than rekindled ancient hatreds; they are harbingers of difficulties ahead. The main questions that motivated preparations for the 50th anniversary of the Universal Declaration of Human Rights were the following three: How salient are human rights abuses as early warnings of conflicts within States? Should the UN take a more active role in helping Governments deal with problems of human rights abuse to prevent such conflicts in the future? If so, then how?

Developing tentative answers to these questions, along with options for effective government action, does not require the elaborate process of consultation and consensus building that preceded the Vienna conference in 1993. Rather, the High Commissioner for Human Rights has primary responsibility for planning the 50th anniversary celebration. The Secretary-General should seize the opportunity of welcoming the new High Commissioner, Mary Robinson, and announce that, in addition to the effort already under way, she will prepare a report assessing human rights as an instrument of conflict prevention and collective security that will be presented to a special meeting of the General Assembly on December 10, 1998. The report would address analytic, institutional, and operational issues and be developed in conjunction with the Secretary-General’s broader program for UN reform.

The analytic work would deal primarily with the lessons learned from UN involvement in past crises, the salience of human rights as a precursor of humanitarian emergencies and war, and the human rights dimensions of post-Cold War preventative diplomacy and humanitarian action. The research and analysis would be carried out by the UN Centre for Human Rights, in cooperation with the Secretary-General’s new Strategic Planning Unit, and with the help of research facilities of other UN agencies. This would be augmented when necessary by external research contracts with leading universities around the world. Conventional research and analysis obviously are no substitute for action, but they can inform and give impetus to action,

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either by helping to remove excuses for doing nothing or by helping avoid actions that cannot succeed and that would undermine the prospects for acting in future contingencies.

All forms of research and analysis can also contribute to institutional reform by strengthening High Commissioner Robinson’s role as a member of the Secretary-General’s new Senior Management Group (SMG). Under the terms of Kofi Annan’s July 1997 reforms, he will chair the SMG that will comprise the convenors of the UN’s four new interagency executive committees (Peace and Security, Economic and Social Affairs, Development Cooperation, and Humanitarian Affairs). Human rights, the fifth core mission of the UN, is the primary mandate of only one specialised agency - UNHCHR - and it does not have an executive committee. As noted earlier, the Secretary-General has stressed that human rights will be represented at each of the other executive committees, and presumably High Commissioner Robinson will be an essential member of the Senior Management Group. By December 1998, there should be solid evidence of how well the Secretary-General’s plan to ‘mainstream’ human rights is working across all UN departments, programs and funds. High Commissioner Robinson should also have developed specific insights into the current and potential role of human rights as an early warning instrument in advancing the UN’s mission in peace and humanitarian affairs. These findings can be a major component of her report and, together with the research and analysis, provide a solid context for the operational sections.

I suggest that there should be at least two parts to this operational prevention. The first would deal with the immediate tactical benefits of incorporating early warning of human rights abuses and response into the preventative action programs to be proposed by the Secretary-General. Under Article 99 of the Charter, the Secretary-General ‘may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security’. Although this provision has been rarely used in the past, it has new potential as an instrument for preventative action, particularly now that the Cold War is past. Over the past year the Secretary-General also has been able to use personal envoys and special representatives to help defuse and manage potential crises.257 Still, the Secretary-General has too little capacity to do the global monitoring and assessments that are required

for adequate early warning, and he is even less well equipped to engage the parties to a local dispute in efforts of conflict prevention. The High Commissioner’s report should highlight the importance of the human rights component for the Secretary-General’s proposed preventative actions, and should suggest ways to strengthen this capability.\textsuperscript{258}

The second operational component would be of a longer term and strategic nature. High Commissioner Robinson’s special report in December 1998 should anticipate the deliberations two years hence when the Secretary-General has proposed that the General Assembly in the year 2000 be convened as a ‘Millennium Assembly,’ with a summit segment. ‘Heads of Government,’ Annan suggests, ‘could come together to articulate their vision of prospects and challenges for the new millennium and agree on a process for fundamental review of the role of the United Nations.’\textsuperscript{259} Although it is likely that the ‘Millennium Assembly’ will be more form than substance, governments could use it as a forum for deciding how best to balance States rights and human rights.

\textit{The purpose and import of this exercise would not be to promote human rights primarily or just for moral or ideological reasons, but to tie the defence of human rights to a new collective security strategy of conflict prevention.} In a sense, it would be an overdue effort to meet the fundamental concerns of the founding members of the United Nations. The 1945 approach to peace building marked a significant departure from past practice. Instead of repressing former enemies, the United States led an unprecedented effort to assist their reconstruction in ways that would encourage them to become capable partners, economically and politically. For the rest of the world, however, the founders of the UN preferred to concentrate on building capable economic partners, while reinforcing the traditional norms of

\textsuperscript{258} Detailing trigger points for undertaking preventative action would be controversial and counterproductive given all the complexities and uncertainties of change within multiethnic countries under stress. Presumably this assessment by the High Commissioner could be broadly framed by indicating how human rights monitoring has functioned and was effective for early warning. It could also include examples in which assistance to protect and promote human rights has had positive effects. For a conceptual framework that could assist the High Commissioner and other policymakers in their assessment of the risks of conflict and trigger points for international action see Pauline H. Baker and John A. Ausink, “State Collapse and Ethnic Violence: Toward a Predictive Model,” \textit{Parameters} (Spring, 1996): pp. 19-32. For suggestions regarding the role that NGOs play in this process see Robert I. Rotberg (ed.), “Conclusions: NGOs, Early Warning, Early Action and Preventative Diplomacy,” in \textit{Vigilance and Vengeance: NGOs preventing ethnic conflict in divided societies} (Washington,D.C.: Brookig Institution Press, 1996), pp. 262-268.

sovereign equality and non-interference. They limited the new collective security provisions of the UN Charter to threats of international aggression, not domestic repressions.

When the Cold War ended, no one proposed convening a major peace conference to consider how to prevent future conflicts. By the 1990s, the threat of a third world war among the major powers had at least all but disappeared. The strategic realignment that had occurred with the trilateral alliance of Europe, North America and Japan, and the peaceful dissolution of the Soviet Union, was no less significant than those that produced the treaties of Westphalia (1648), Vienna (1814-1815), Versailles (1918) and San Francisco (1945). Although there was no need for governments to reconvene to design more durable arrangements to prevent further major interstate wars, they made no serious attempt to prevent the conflicts that have led to more than 4,000,000 deaths since 1989, and the hordes of refugees and internally displaced persons that have been the subjects of parts of this thesis. It is, therefore, not unreasonable to assume that future philosophers may one day ask: why there was no major peace conference following the Cold War?

If the Governments attending the 'Millennium Assembly' were able to develop the norms, capacity, and will to act collectively in support of human security - at least to the degree that they have been willing to support State security - this gathering might rival the significance of the San Francisco conference of 1945. The 1998 special meeting of the General Assembly to consider the link between human rights and collective security would be the logical next step in this direction. After the Cold War, the internal character of States has become a matter of increasing non-ideological concern. More and more governments in Latin America, Africa, Asia, and the former Soviet bloc are discovering common interests in promoting regional and international standards of human and minority rights, if only to keep potential refugees at home.

An historic convergence of national interests and support for basic human rights may be emerging from the terrible realities of the recent past and of the present, and this may lead historians to one day label the immediate post-Cold War years as the era of complex humanitarian emergencies. The frequency of these intensely violent local conflicts and their international effects are unprecedented and were unforeseen. The widening international
consensus on the importance of protecting human life, and the rise of democratic values that ultimately are the only way to prevent these conflicts, have, however, been evident for some time. Nearly 20 years ago, the US multilateralist Harlan Cleveland foresaw the basis of the emerging international order that Kofi Annan might well agree should be the core concern of the 'Millennium Assembly'. In a 1979 essay on the internationalisation of human rights, Cleveland noted that:

> We may be living, even if we are not yet noticing and articulating, through one of those profound shifts in human values that comes along once a millennium... The idea of human rights - the notion that societies should be managed 'as if people mattered' - is so fundamental, so 'natural,' so obvious once revealed, that it just may be the first revolution to achieve a global reach, the first world-class superstar in the history of political philosophy.\(^{260}\)

If this proves prophetic, there may finally be hope of protection for people in peril. Governments must, however, become more willing and able to act collectively to promote human rights as a way to reduce the need for humanitarian assistance and to prevent war. *Over the long term, a new balance must be struck between the competing imperatives of human rights and sovereign rights if peace is ever to prevail within and between States.*

Chapter 9 – The Potential of Early Warning Systems for, and Appropriate Responses to, Minimising War

Introduction

The argument that little, if anything, can be done to prevent war or genocide is increasingly unconvincing. Genocide on the scale of Kosovo, Bosnia, Rwanda and East Timor can indeed be anticipated and prevented. Early warning is a pre-requisite both for any prudent decision to act and for effective action itself.

In this chapter, I argue that leaders need the kind of warning that will induce them to act preventatively, not simply warning that a bad situation is getting worse. Leaders tend to put off hard decisions as long as they can, and this has often resulted in delay or paralysis in dealing with developing crises. To prevent war, leaders must overcome this initial policy paralysis.

The events that could trigger war are usually different from the events that trigger a preventative response from outside parties. It would not, for example, have been possible to give an unambiguous, precise warning that a plane crash in Central Africa would precipitate the slaughter of over 800,000 people. But many earlier indications of the possibility of genocide in Rwanda in 1994 were ignored, and no preventative plan of action was in place. As I point out in this chapter, outside parties must become more receptive to warning.

Early warning will not ensure successful preventative action unless there is a fundamental change of attitude by Governments and international organisations. Third parties should not simply wait for unambiguous disasters and mass slaughter before they take preventative action. Rather, a systematic and practical early warning system can and should be combined with consistently updated contingency plans for preventative action that provides leaders with a repertoire of responses. This would be a radical departure from the present system, where
when a trigger event sets off an explosion of violence, it is usually too difficult, too costly, and too late for a rapid and effective response.

In this chapter, then, I advance the thinking in these crucial aspects of preventing war.

While the framework being advanced here was developed prior to the commencement of NATO bombing of Kosovo in March-June 1999, it is clear to the author that if the early warning systems strategy, being advanced here, had been followed an appropriate window of opportunity could have been identified. Indeed, this could have avoided the mass exodus of Kosovo Albanians, as well as most of the destruction of infrastructure shared by the military and the civilian population (bridges, airports, etc.).

Specialists, however, may disagree on the scope of preventative diplomacy and, more broadly, preventative measures of various kinds. They may differ also in their assessment of policies and strategies to ward off undesirable events. There is no disagreement, however, on the importance of obtaining early warning of incipient or slowly developing crises if preventative action is to have any chance of success.

The end of the Cold War has diminished neither the importance nor the challenge of obtaining early warning. Indeed, the Australian intelligence community today monitors and analyses an increasing number of factors, in addition to the more traditional military indicators of potential conflict, such as environmental degradation, economic failure, religious conflict and population problems. The increased complexity of gathering, sorting, and analysing data for early warning results from the pressing need to respond quickly, efficiently, and effectively to rapidly changing global events. In an era of increasing demands on limited resources, this task is all the more difficult.²⁶¹

²⁶¹ The changing dimensions of information gathering and response are highlighted in two Foreign Affairs articles by Joseph Nye. Nye notes that as warning indicators become more diffuse and complex, “information about what is occurring becomes a central commodity of international relations, just as the threat and use of military force was seen as the central power resource in an international system overshadowed by the potential clash of superpowers”. Nye suggests that international coalitions will, in future, be based on “the ability quickly to reduce the ambiguity of violent situations, to respond flexibly, and to use force, where necessary, with precision and accuracy.” Joseph Nye and William Owens, “America’s Information Edge,” Foreign Affairs 75, no. 2 (March/April, 1996), pp. 20-36; and Joseph Nye, “Peering into the Future,” Foreign Affairs 73, no. 4 (July/August, 1994), pp. 82-93. See also Gregory E. Treverton, “Estimating Beyond the Cold War,” Defence Intelligence Journal 3 (1994), pp. 5-20.
In recent years the problem of obtaining early warning has received a great deal of attention, not only within the United Nations, regional organisations and governments, but also from non-government organisations and research specialists. However, the more difficult problem of marshalling timely, effective responses to warning has received much less systematic attention. A major objective in this chapter is to highlight this need for more emphasis on developing effective responses for preventative action of various kinds. This chapter also emphasises that the design, construction and management of early warning systems should be intimately connected with the task of responding to such warnings. I base this view on my belief that an improved capacity to know about and correctly interpret events early on will improve the quality of the responses that are brought eventually to bear - a belief that is shared by a range of policy professionals. In this thesis, I cannot offer specific policy recommendations for overcoming the gap between early warning and effective response; rather, I provide a conceptual approach for analysing the problem. I conclude this chapter with a discussion of how warning and response interact in policymaking. When successful, that interaction can help avert violence. When unsuccessful, the result is often looked upon as a

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A number of countries are struggling to improve their capacity to foresee, and respond to, humanitarian and political crises in the post-Cold War era. For an example of national efforts to understand and develop a response to longer-term changing international circumstances, see Canada 21: Canada and Common Security in the Twenty-First Century (The Centre for International Studies, University of Toronto, 1994).

For an incisive, documented analysis of the warning-response gap in dealing with humanitarian emergencies, see “Global Humanitarian Emergencies 1995,” released by the United States Mission to the UN (January, 1995). The so-called “Norwegian Model” offers an example of successful government-NGO cooperation to overcome this gap. The framework for Norwegian efforts is provided by the Norwegian Emergency Preparedness System (NOREPS) and Norwegian Resource Bank for Democracy and Human Rights (NORDEM), which provide flexible stand-by arrangements and foster close cooperation between government, voluntary, and academic agencies and universities.

263 This need was succinctly recognised in the report of The Commission on Global Governance: “Although the need for collection, analysis, and dissemination of information cannot be overemphasised, an even more important task is to initiate action on the basis of information providing early warning of possible conflicts.” Our Global Neighbourhood (Oxford: Oxford University Press, 1995), p. 98.

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‘missed opportunity’. I discuss such ‘missed opportunities’, but with reservations, not least because of the dangers associated with counterfactual analysis. However, well-crafted examinations of missed opportunities for preventative diplomacy can be useful in bringing to light, and learning from, past warning-response failures.

**Toward an Integrated Warning-Response Framework**

Too much of the considerable effort that has been devoted to developing improved warning indicators has been divorced from the problem of linking available warning with appropriate responses. One explanation for this separation may stem from the stark lines drawn between collection and analysis in the intelligence community.\(^{264}\) Perhaps there is reason for this separation, for this approach may be traced to the increased professionalisation of the intelligence field, where intelligence analysts assiduously ward off any hint that they ‘do policy’. Instead, they have tended to focus their efforts on improving the ways in which information is acquired and analysed.\(^{265}\) Another explanation may lie in the very difficulty of policymaking in today’s international environment. It may simply be beyond the capacity of any single office or agency to stay abreast of global developments in such a way as to anticipate, craft, launch and manage intricate, multilateral policy responses.

But, whatever the institutional causes of the warning-response gap, there are widespread expectations that Governments will act responsibly to help ward off possible crises.\(^{266}\) These expectations arise, in part, because an increasingly mobile world population, combined with the explosion of global communications (the so-called CNN effect), have helped in many

\(^{264}\) This division is clearly demonstrated by the overwhelming - and often criticised - intelligence community emphasis on information gathering at the expense of analysis. According to a recent report, 90 percent of the classified intelligence budget of Australian agencies is used for the collection of data, while less than 10 percent goes toward the analysis of this information.

\(^{265}\) While this seems true of policy professionals, senior policymakers seem to be more divided on the optimal degree of separation between intelligence and policy. For a general discussion of the separation between collection and analysis on the one hand and the policymaker on the other, see Richard K. Betts, “Policy-makers and Intelligence Analysts: Love, Hate or Indifference?” *Intelligence and National Security* 3, no. 1 (January 1988), pp. 184-189.

\(^{266}\) A survey of recent newspaper articles and editorials bears this point out. From Chechnya to Yugoslavia to Rwanda, members of the press and public have argued that these conflicts were preventable and have lamented the lack of initiative taken by leading Governments and international organisations to head off such disasters.
countries to create and inform attentive, expert, and often activist communities who are aware of problems before they become violent. As a consequence, it has become less plausible for Government officials to try to explain away policy missteps and failures by pointing to the lack of timely and correctly evaluated intelligence, although the urge remains almost irresistible.²⁶⁷

The complexity of world events, combined with the compressed time span within which decision makers are expected to craft and articulate a policy to deal with unfolding crises, makes it harder, yet at the same time more necessary, for intelligence analysts and policymakers to work within an integrated 'warning-response' framework. Indeed, the need for such an integrated approach was the fundamental lesson drawn from the surprise attack on Pearl Harbour, and this provided the starting point for post World War II efforts to design systems and procedures for avoiding such a lapse.²⁶⁸

As with the need to respond effectively to avoid a surprise attack, preventative action to deter the outbreak of various post-Cold War crises also demands an integrated warning-response framework. Yet, for such crises, the warning-response problem is often more complicated and difficult than for avoiding surprise attack. In the latter case, policymakers have already determined that some set of observable hostile actions would be both an unmistakable threat and constitute the strongest possible incentives to acquire timely warnings that would permit an appropriate response. The same cannot be said for many lesser contingencies, such as ethnic conflicts and patterns of gross human rights abuses. Since situations of this kind - even in crisis - pose a much less grave threat to the interests of a third party, policymakers are often less inclined to demand early warning or to take it seriously and respond to it.²⁶⁹


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But one may wonder whether there have been many crises for which no warnings were available, however misperceived, misjudged or ignored. Experts predicted war in Bosnia even as the Vance plan brought a cessation of hostilities between Croatia and Serbia in 1992. The violent spasms in Rwanda in 1994 was anticipated months in advance, although the magnitude of the killing was not precisely foreseen. Even Saddam Hussein’s precipitous invasion of Kuwait in 1990 was no great surprise to those who closely watch events in the Middle East.270 If events such as in Bosnia, Kuwait, Rwanda and the Republic of the Congo are known (and increasingly knowable, given the rapidly contracting nature of global interactions), why were they not prevented? No simple answer is possible, yet a partial explanation may lie in the examination of how warnings are recognised and transmitted to policymakers, and with policymakers’ assessments of the implications of such warnings for action.

The Problem of Receptivity to Warning271

Receptivity to warning has been a problem not only for conflicts that occur on the margin of States’ interests, but also for situations threatening a surprise attack. Although the reasons for inadequate receptivity and response to warning differ in some ways for these two types of threats, it will be useful first to review our experience with the problem of receptivity to warning of possible surprise attack and, related to this, to unexpected diplomatic initiatives that trigger the possibility of war. Properly scrutinised and evaluated, this historical experience may be suggestive for the design and use of more effective warning-response systems for preventative action for other types of crises.

269 Although that is not to say that policymakers do not want to know that such events are imminent, only that when compared to direct national threats, these contingencies are simply deemed less important.
270 As will be discussed later in the chapter, there were a number of short-term and long-term signals that demonstrated the threat of military action by Iraq. Though many in mid-1990 may have been surprised by the timing and scope of Iraq’s action, the mobilisation of its army on the Kuwaiti border was no secret. For a detailed discussion on these warning signals, see Bruce Jentleson, With Friends Like These: Reagan, Bush and Saddam, 1982-1990 (New York: W.W. Norton & Company, 1994), especially pp. 167-176.
Experimental research provides a useful starting point for analysis of factors that impede receptivity to warning. Laboratory studies of difficulties in perception of stimuli provide useful analogies to the problem of receptivity to warning of emerging threats in the international arena. The results of perception experiments, however, do not encourage hopes for easy or effective solutions to this problem. Indeed in looking at a person’s ability to recognise a stimulus that is embedded in a stream of other stimuli, I believe at least three factors to be important:

1. the ‘signal-to-noise’ ratio, i.e., the strength of the signal relative to the strength of the confusing or distracting background stimuli;

2. the expectations of observers called upon to evaluate such signals; and

3. the rewards and costs associated with recognising and correctly appraising the signal.

One might assume that the stronger the signal and the weaker the background ‘noise,’ the easier it should be to detect the signal; weak signals are simply not picked up. However, even controlled laboratory tests reveal the task of correct signal detection to be more complicated than this. The results of perceptual experiments that deal with relatively simple psychophysical auditory and visual stimuli indicate that detection of a signal is not simply a function of its strength relative to background ‘noise’. Indeed, the effect of a signal’s strength on the ability to identify it can be less important than the second and third variables mentioned above.

The complex environment of international affairs only complicates matters further, adding domestic and international overlays to the basic ‘map’ of the crisis situation. A decision maker’s expectations and the rewards and costs associated with recognition of the signal may be more important than determining receptivity to and correct appraisal of information about an emerging threat.

But, while expectations regarding both the emerging crisis and the potential responses play a key role in a decision maker’s receptivity to warning, the logic of warning and the logic of
response are often in conflict. The logic of warning can be summarised as 'the sooner the better'. However, policymakers generally prefer to put off hard choices as long as possible. Thus, even if a leader expects a situation to deteriorate, additional information and warning to this effect may not prompt preventative action.

Because policy choices in a crisis are often so difficult to make, individuals (as well as small policymaking groups and organisations) may discredit information that calls into question existing expectations, preferences and policies. It is well known that discrepant information of this kind is often required, in effect, to meet higher standards of evidence and to pass stricter tests of admissibility than new information that supports existing expectations and policies. As a result, it is disconcertingly easy at times for policymakers and their intelligence specialists to discount discrepant information or to interpret it in such a way as to protect a preferred hypothesis or policy. In Australia, the establishment of multiple intelligence organisations, such as the Office of National Assessments (ONA), the Defence Intelligence Organisation (DIO), the Defence Signals Directorate (DSD) and the Australian Secret Intelligence Service (ASIS), with their capacity for redundancy and rich detail, was designed, in part, to counter this tendency. Yet the habit persists. Indeed, not only is the discrepant information still discounted, but the contributions of entire intelligence organisations can be discounted.272

The 'reward-cost' aspect of correct signal detection, too, can sharply reduce the policymaker's receptivity to information of emerging threats, for early warning does not necessarily make for easy response. On the contrary, warning often forces policymakers to confront both difficult and unpalatable decisions. One means for avoiding such difficult decisions is to reduce one's receptivity to warning signals. Moreover, the policy 'background' against which new information is judged can strengthen the tendency to ignore or downgrade incoming information that challenges existing beliefs or exacerbates decision dilemmas. Thus, once

272 A number of off-the-record discussions with Australian analysts and policymakers familiar with the relationship between the intelligence and policy communities have noted the sometimes notorious competition among the various intelligence agencies for primacy in informing the policy process. Assessments of potential crisis situations find agencies at times in sharp disagreement with one another regarding the likely outcome. Such sustained disagreement often leads, over time, to the marginalisation of the agency that is at odds with the intelligence agency offering the estimates that reinforce the policy inclinations of the key decision makers.
policy decisions have been made within the Government, they tend to acquire a momentum of their own and the support of vested interests. Top-level decision makers are often reluctant to reopen policy matters that were decided earlier with great difficulty; to do so, they fear, can be taken as an indirect admission of policy failure and easily plunge the Government once again into the turmoil of explanation and further decision making.

The Korean War

Psychological mechanisms of this kind have contributed to a number of important intelligence and policy failures. Among them was the Truman Administration's pronounced lack of receptivity to the ample warning available in the spring of 1950 of the forthcoming North Korean attack on South Korea. As studies have shown, had the warning been taken more seriously, the Administration might have weighed more carefully whether the perceived stakes in Korea warranted US military intervention.\textsuperscript{273} If an affirmative answer to this fundamental question had emerged, the Administration might have undertaken to deter North Korea. As it was, the North Koreans acted as they did because they thought that they would win a quick victory and the United States would have no time to intervene, after being warned by Stalin that the United States was likely to intervene (Gonchorov, Lewis & Xue, 1993). Thus, the Korean War, with all of its fateful consequences, qualifies as a genuine example of war-through-miscalculation. It was a war that might well have been avoided had Washington and its Allies been more receptive to warning and acted upon it appropriately.\textsuperscript{274}

This case illustrates how information processing within the US policymaking system, in particular, was impeded and distorted both by the expectations and mind-set of the Administration and by the costs that greater receptivity to incoming information of the emerging threat would have entailed. \textit{Taking available warning seriously always carries the 'penalty' of deciding what to do about it.} In this case, it would have required President Truman and Secretary of State Dean Acheson to reconsider the earlier decision that they had

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made in 1949 to draw a line defining US security interests in the Far East to exclude Formosa, South Korea and Vietnam. The exclusion of Formosa was part of the Administration’s policy of disengaging from the Chinese Nationalists, a decision that was far more controversial within the Administration and with the public than the exclusion of South Korea. So much so that a reversal of the existing policy of no military commitment to South Korea in response to the warning of a possible North Korean attack would have been politically inconceivable, unless Truman and Acheson had also been willing - which they were not, prior to the North Korean attack - to extend a new commitment to the Chinese Nationalist regime on Formosa as well.

As this case and others show, the policy background at the time warning becomes available may subtly erode the policymaker’s receptivity to it. A similar misfortune occurred later in the Korean War. During September and early October 1950, the Administration eased itself into a commitment to occupy North Korea and to unify it with South Korea. But, when repeated warnings came in that such a move would trigger Communist Chinese military intervention, the Administration found itself so locked into its more ambitious war policy that it dismissed the warnings as a bluff. To give credence to the worrisome indications of a forthcoming Communist Chinese intervention carried with it the cost of reconsidering and abandoning the war policy that had given rise to the danger. In this critical situation, wishful thinking contributed to the Administration’s grossly defective information processing. Once again the result was that Washington was taken by surprise when the Chinese launched their massive offensive in late November. A new war resulted that neither side had wanted, one that might have been avoided had Washington and its Allies not misperceived and misjudged the relatively clear evidence of Chinese intentions.275

The Blockade of West Berlin

Similarly, in the spring of 1948, most Allied policymakers refused to take seriously the possibility of a Soviet blockade of West Berlin, despite mounting tension and the fact that the Soviets had recently imposed a temporary blockade of Western ground access to the city. Some of the same psychological dynamics that interfered with optimal processing of incoming information in the cases already described can be seen here, too. For Allied policymakers to have taken available warning of a possible Soviet blockade of West Berlin seriously would have carried with it the 'cost' of requiring them to face up to and resolve difficult, controversial policy problems.

At that time an Allied commitment to West Berlin did not yet exist. Officials within the US Administration were badly divided over the wisdom of attempting to defend the Western outpost that lay deep in Soviet-occupied East Germany. Under these circumstances, it was easier to believe that the Soviets would not undertake serious action against West Berlin than it was to decide beforehand what the Allied response should be to such an eventuality. In this case, fortunately, although Allied policymakers were surprised by the Soviet blockade, Truman dealt with the crisis without backing down or going to war.276

The Gulf War

The August 2, 1990, Iraqi invasion of Kuwait offers a more recent example of the difficulty of correctly reading an adversary's signals. By mid-July of 1990, US and Israeli intelligence had identified the build-up of some 35,000 Iraqi troops and 300 tanks on Kuwait's border. At the same time, Iraq was bringing charges before the Arab League that Kuwait had, among other things, broken OPEC oil production quotas and stolen oil from Iraqi territory. In compensation, Iraq demanded an increase in the price of oil (from $18 to $25 a barrel), $2.4

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billion from Kuwait, and a moratorium on Iraqi debts to other Arab States stemming from the Iran-Iraq War. Should the demands not be met, Saddam Hussein threatened that he would ‘have no choice but to resort to effective action to put things right and ensure the restitution of [Iraqi] rights’. Through the latter portion of July, US and Israeli intelligence continued to monitor Iraqi troop advancements. By the end of the month, 200,000 troops had been assembled on the Kuwaiti border, accompanied by strategic deployments of ammunition and supplies. These moves, together with other ominous signs, such as the continued build-up of biological and chemical weapons and strong evidence of a nuclear weapons development program, highlighted the threat posed to the region and to vital US economic and strategic interests, particularly the possibility of disruption of ‘cheap’ oil supplies.

Analysis of Iraqi intentions differed within the Western intelligence and diplomatic communities. Even the Kuwaitis at first believed Hussein was merely bluffing to gain economic and strategic concessions. Analysts, who were tracking the situation within both the Central Intelligence Agency and the Defence Intelligence Agency eventually concluded (by July 25 and July 30, respectively) that Iraq intended to invade Kuwait. Even at this late date, however, high-ranking officials in the Western intelligence and military communities remained sceptical about the invasion analysis, believing instead that Iraq was likely to make only a limited border crossing.

American and Western diplomatic response to the Iraqi troop movements was equivocal. Bush administration officials repeatedly stated that the US had no defence treaties with Kuwait and the other Arab States threatened by Iraq. The US ambassador to Iraq reportedly told King Hussein that ‘we have no opinion on the Arab-Arab conflicts, like your border disagreement with Kuwait’. At no point was Iraq told what the consequences would be should it attack

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279 Jentleson, *With Friends Like These*, pp. 174-175.
280 A number of sources have included discussions of, and excerpts from, the meeting between Ambassador Glaspie and Saddam Hussein, including Jentleson, *With Friends Like These*, pp. 169-171; and Freedman and Karsh, *The Gulf Conflict 1990-1991: diplomacy and war in the new world order* (London: Faber and Faber, 1993), pp. 51-55.
Kuwait or any of the other Gulf States. Many now believe that the absence of a clear response led Iraq to believe that its invasion of Kuwait would be met with little resistance by the international community and, more specifically, by the US.\textsuperscript{281}

These several lessons of historical experience regarding lack of receptivity and inadequate response to warning of surprise military and diplomatic actions are applicable also to the various kinds of threats in the post-Cold War world that similarly demand effective preventative action.

\textit{Genocide in Rwanda}

The Rwandan conflict offers another, brutal, example of the difficulties associated with generating effective responses to the types of conflict dominating the post-Cold War era, i.e., situations that do not threaten the vital interests of the major economic powers.

‘Most leading activists believe that the Government has compiled lists naming people to be assassinated when circumstances require’.\textsuperscript{282} So reported Africa Watch in a 1992 report highlighting human rights abuses and tensions between the Hutu majority and Tutsi minority in Rwanda. Beginning on April 6, 1994, these lists were used as part of a killing spree that would, in a matter of weeks, take the lives of nearly 800,000 people. The significant presence of international organisations (the UN and the Organisation of African Unity) and representatives of key donor countries (including France, Belgium and the United States) ensured that warning of the developing crisis was received well ahead of its development by prominent actors in the international community. Despite this significant presence and ample evidence of deteriorating circumstances in Rwanda, there was an acute failure to respond. A number of factors contributed to this failure. According to one report:

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\textsuperscript{282} Africa Watch, “Rwanda: Talking Peace and Waging War: Human Rights Since the October 1990 Invasion” (February 27, 1992).
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There existed an internal predisposition on the part of a number of the key actors to deny the possibility of genocide because facing the consequences might have required them to alter their course of action. The mesmerisation with the success of Arusha [The 1993 peace accord between the Hutu-dominated Government and the Tutsi-dominated Rwandan Patriotic Front] and the failure of Somalia together cast long shadows and distorted an objective analysis of Rwanda.\(^{283}\)

Among the more obvious warning signals were ‘hate radio’ broadcasts directed at Tutsis and moderate Hutus, continued training of Hutu militia units, and Government-sponsored killings. Yet none of the major outside actors formulated, let alone articulated, an appropriate response to the potential outbreak of widespread violence. According to Human Rights Watch consultant Alison Des Forges, a particularly important event was the February 1994 murder of a moderate Hutu cabinet member by Government soldiers. Des Forges noted, ‘when they [Hutu extremists] saw they could get away with that kind of violence . . . it encouraged them to go ahead with the larger operation’.\(^{284}\)

Although the foregoing discussion of receptivity to warning has been necessarily brief, it nonetheless indicates that the impediments are numerous and that they cannot be easily eliminated. For this reason, most specialists, including the writer, have urged that the problem of securing and analysing warning should be linked closely with the problem of deciding what responses are appropriate and useful in the light of the available warning, however equivocal or ambiguous it may be. Although high-confidence warning is what is needed, it must be acknowledged that presently it is often not available. However neither is high-confidence warning always necessary for making effective responses to the possibility of an emerging crisis.

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Indeed, this analysis of receptivity to warning of emerging threats applies also to information about favourable developments elsewhere in the world that offer opportunities for foreign policymakers to advance positive goals. For many purposes, policymakers do not need or require high-confidence forecasts of emerging crises and opportunities, at least, to explore the range of possible actions. Thus, for example, following the Soviet invasion of Czechoslovakia in 1968, and the enunciation at that time of the Brezhnev Doctrine, policymakers in Washington (as well as British observers) speculated that these events may have increased China’s anxiety regarding a Soviet invasion. Was this anxiety (which its ongoing border conflict with the Soviet Union could only have heightened) sufficient to make China interested in détente with the United States? We cannot be sure of Chinese thinking at that time, but the point that deserves emphasis here is that it did not require a forecast that could confidently predict Beijing’s readiness for détente to make it worthwhile for Washington to explore and encourage the possibility discreetly. Sensible steps could be taken to reinforce and activate any disposition for détente on the part of the Chinese. From the standpoint of US policy, the matter of possible détente was ‘actionable’, even in the face of considerable uncertainty as to China’s readiness and conditional willingness to reorient its policy towards the United States.285

The Sino-Soviet border clashes in March 1969 caused Mao to reconsider China’s relationship with the United States. China’s strategic location seemed unfavourable because it was located between the superpowers of the Soviet Union and the United States. While the Soviet Union stood as a threat because of her expansionist policies, the collusion of the two superpowers would endanger China’s national security. This caused Mao to explore détente with the United States partly as an attempt to “drive a wedge between” the two superpowers (Shao, 1996, p.198) and partly because it was “reinforced by a changing American attitude towards China” especially under the newly elected Nixon Administration (Barnouin & Yu, 1998, p.99).

285 Likewise, it is not difficult to find excuses not to act. In Rwanda, for example, even in the aftermath of genocide, the limited US contribution of armoured personnel carriers to UNAMIR was delayed for two months while the State Department haggled with the UN over compensation for the vehicles.
The Warning-Response Gap

In this thesis, I have noted that policymakers are often not inclined to take early warning seriously nor to act upon it in situations that pose the possibility of severe ethnic and religious conflicts, humanitarian disasters, or gross human rights violations.\textsuperscript{286} A number of reasons exist for this passivity. The first is the relatively low stakes perceived to be at risk. At an early stage in their development, such contingencies simply are not perceived to pose grave threats to a given State's national interests. Moreover, whether a low level conflict or incipient crisis will escalate in ways that would eventually engage major interests of individual States or the international community often remains problematical and difficult to forecast.

Second, despite efforts to improve early warning indicators of possible flare-ups, such events are likely to remain equivocal, subject to considerable uncertainty, and capable of diverse interpretations. It is not that potential major trouble spots cannot be identified; rather, a large part of the problem lies in understanding such situations well enough to forecast which ones are likely to explode and when. Experts and observers within the intelligence community are likely to differ in their estimates of how serious a low-level situation will become, with what probability, and how soon.

Third, early warning indicators typically do not speak for themselves; they require critical analysis and interpretation. Presently, the kinds of knowledge and theories needed for this purpose are often in short supply. As noted earlier within the Western intelligence community, specialists have tended to focus more on improving possible indicators than on developing

\textsuperscript{286} Such reluctance may be a Western phenomenon. In an essay prepared for the Carnegie Commission, former Soviet president Mikhail Gorbachev argues that the response tendency in many former bloc States, as well as other repressive regimes, tends to be exactly the opposite: knee-jerk crackdowns. The essay, "Nonviolent Leadership," is part of a volume that the Commission is currently preparing on the role of leadership in preventing war.
better theories and models to assess and predict the significance of these indicators.\textsuperscript{287}

Fourth, even in a case in which there is relatively good warning, policymakers may be reluctant to credit the warning and to take preventative action partly because they have been subjected too often to the ‘cry wolf’ phenomenon. Oddly enough, intense policy concerns that actions may be seen as premature or unnecessary - revealing an embarrassing policy naivete, or worse, the possible unneeded commitment of scarce resources - generate a real wariness of ‘false triggers’.\textsuperscript{288} These policymakers, who are typically preoccupied with a battery of other problems that require urgent attention, often give only the barest attention to new, low-level crises that they hope may never develop into serious concerns.

Fifth, and related to this, overload induces passivity. Given the large number of simmering crises, and the ever-growing limits on resources, policymakers find it harder and harder and therefore impractical to respond with preventative actions to all of them. This thinking is further reinforced by the general lack of knowledge regarding what efforts would be effective. Early warning of an equivocal, uncertain nature in such situations is insufficient for costly or risky responses.

Thus, in many ethnic and religious conflicts, humanitarian crises and severe human rights abuses, the lack of timely and accurate warning may not be the problem at all. Rather, for one reason or another, as noted above, no serious response is likely to be taken solely on the basis

\textsuperscript{287} This difficulty is highlighted, for example, in Ted Robert Gurr and Barbara Harff, “Conceptual Research and Policy Issues in Early Warning Research: An Overview,” \textit{The Journal of Ethno-Development} 4, (1); also, Janie Leatherman and Raimo Vayrynen, “Structure, Culture and Territory: Three Sets of Warning Indicators,” paper prepared for the 36\textsuperscript{th} Annual Convention of the International Studies Association, Chicago, IL, February 21-25, 1995.

\textsuperscript{288} The “cry wolf” dilemma in warning and response is cogently summarised by William Zartman: “The biggest problem in the early warning debate is not whether an event is preceded by warning signals but whether warning signals are followed by an event. There are many more prior indications than there are ensuing events; many warning signals simply fizzle and seemingly impending events work themselves out… What is needed is tornado warnings that announce tornadoes but also that do not announce non-tornadoes. The corridors of policy-makers reverberate with cries of ‘wolf!’” I. William Zartman, “Preventing State Collapse: The Argument,” draft paper, Working Group on Collapsed States, The Johns Hopkins University, Washington, DC, November, 1996. Other observers have noted that while greater vigilance in warning and response does result in an increase in “cry wolf” outcomes, errors of this type are preferable to extremely costly failures resulting from lack of attention to developing events.
of early warning simply because a simmering situation that threatens to boil over may not be deemed important enough to warrant the type and scale of effort that is necessary to prevent the hypothetical catastrophe. Moreover, this kind of reaction may occur, not only when what is at stake is only dimly perceived or not foreseen at all, but also when the coming crisis is fully and accurately anticipated.

Indeed, sixth, and finally, it may be that a reluctance to act in the face of warning at times results not because warning is not taken seriously, but rather because decision makers take it very seriously, but are nonetheless deterred by the prospects of a ‘slippery slope,’ that is, inexorable - and potentially intractable - involvement in an already nasty problem. This dilemma is particularly poignant for political leaders who must weigh incurring political costs now (in addition to the human and material costs that action entails) against benefits that will accrue downstream, if at all, with no guarantees that they would be given credit for preventing a war, the severity of which is not yet widely appreciated. Thus, even in cases where the prospect of a catastrophe is taken seriously, there may be a lack of ‘political will’ to take timely and effective action.

Numerous observers have noted that Governments frequently ignore incipient crises until they escalate into deadly struggles or major catastrophes. All too often political leaders claim that it is too difficult to persuade the population to support potentially costly and risky operations before disaster occurs. As one report put it:

People throughout the world tend to be guided by the media - and particularly by the Western media - in determining when a problem warrants international action. Television coverage of a situation has become, for many, a precondition for action. Yet for most commercial networks, the precondition for coverage is crisis. There has to be large-scale violence, destruction, or death before the media takes notice. Until that happens, Governments are not under serious internal pressure to act. And by then, the international community’s options have usually been narrowed, and made more difficult to implement effectively.²⁸⁹

²⁸⁹ Our Global Neighbourhood, pp. 94-95.
But, as noted earlier, even when events that could precipitate a major humanitarian or violent crisis are perceived in a timely manner and accurately evaluated, decision makers will often still defer taking preventative action. As we have seen, this inaction is either because the warning is not taken seriously, for the reasons mentioned above, or because the warning is taken very seriously, but the decision makers are loath to confront the unpalatable choice among the perceived available responses. Particularly for the complex and seemingly intractable disputes that have characterised much of the violence of the post-Cold War period, it may be less the unfolding crisis that conditions how a decision maker processes warning than the perceived fallout of taking action.

**Toward Better Use of Warning**

However a policymaker responds to warning, that response entails costs and risks of its own: indeed some responses could even be quite harmful. There is clearly a need to search for responses to warning that are effective in the situation without posing unacceptable costs. Even ambiguous warning can provide policymakers with more time to consider what to do: to step up efforts to acquire more information about the situation, to rehearse the decision problem that they would face if the warning proves to be correct, to spell out the likely consequences if the equivocal warning to which low probability is assigned proves to be genuine, to review their commitments and contingency plans, and - not least in importance - to seize the opportunity to avert a possible dangerous crisis. Thus, even ambiguous warning provides an opportunity to deal with the conflict situation and/or the misperceptions associated with it before it leads to a violent conflict.

Nevertheless, it is a truism that policymakers prefer to receive unequivocal warning before deciding whether and how to respond. As noted earlier, however, high-confidence early warning is seldom available, and it can be highly disadvantageous if policymakers defer action altogether until more conclusive warning is available. It is precisely because unambiguous warning is so difficult to obtain that policymakers must not postpone a consideration of what types of response are useful and acceptable, even though the warning may be uncertain or equivocal.
As noted earlier, once the problem of warning is linked with its implications for action, it becomes significantly redefined. Early warning of a possible crisis is desirable not in and of itself, but insofar as it provides decision makers with an opportunity to make a timely response of an appropriate kind that might be impossible later on. Warning gives the decision maker time to decide what to do and then to prepare to do it. It provides an opportunity to avert the expected crisis, to modify it, and to redirect it into some less dangerous and less costly direction. On occasion, warning may also provide an opportunity to deal with conflict-of-interest situations and misperceptions before they lead to military conflict.

Consideration of the warning-response problem requires the introduction of another dimension into the analysis at this point. Since response to warning is never without cost or risk, the development of warning-response systems, contingency response options, and ad hoc responses requires careful consideration of both the possible costs and the expected benefits of each option, and these must be weighed against the costs and benefits of inaction. At the same time, there are undoubtedly some responses to early warning of an equivocal and ambiguous character that are less costly than others. One could, for example, quietly intensify the collection of covert intelligence activities and/or begin discreet consultations with selected allies in order to clarify an uncertain situation before ‘going public’ with more assertive measures, such as placing forces at increased readiness.

Admittedly, some low-cost responses may make only a limited or uncertain contribution to dealing with a troublesome situation. There may be, in other words, a trade-off between responses that promise a great deal, but are costly and risky, and responses of a more modest, but still useful, kind that do not pose such large costs and risks. The experience with trade-offs of this kind in dealing with the problem of surprise attack may be suggestive. In part, the trade-off dilemma in these cases can be dealt with by developing a calibrated warning-response system, one in which the level-of-readiness response increases with the level or urgency of warning.

For special historical reasons related to the trauma of Pearl Harbour, noted earlier, Western analysts concerned with the warning problem have focused attention primarily upon the
danger of a surprise all-out military attack. Lesser types of threats and crises associated with the broader, and in many ways, more complex tasks of preventative diplomacy and preventative actions have not yet received as much systematic attention in relation to the development of warning-response systems. Thus, the main uses of warning contemplated by the Allied planners in the past have focused upon (a) the use of warning to alert military forces in order to reduce their vulnerability and to shorten their response time; and (b) the use of warning to reinforce deterrence by signalling to the adversary a strong and credible commitment to respond.

A broader range of threats and types of crises should engage the interest of policymakers and specialists on crisis anticipation. Similarly, a broader range of response options than the two uses of warnings noted above should be developed. A longer, more diversified list of possible uses of warning would include, but are not limited to, the following (general response options are listed here without attempting to judge their value in any particular situation):

- gather more information about the situation. Step up the collection of intelligence.

- reduce vulnerabilities. Alert the armed forces and citizens abroad to reduce their exposure and susceptibility to attacks of all kinds. Increase readiness of standby forces and alert the special forces for contingency operations.

- reinforce commitments. Strengthen deterrence, whenever necessary, by signalling credible ‘red lines’ that should not be crossed, using diplomatic means and, if necessary, military demonstrations.

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290 A number of experienced intelligence specialists have endorsed the need for developing a response “repertoire” that includes a wide array of responses, some small, possibly covert, and low cost, others large, public, and more costly. The rationale that “the response must fit the warning” is a simple one, but not one easily realised. The response repertoire, of course, should include the many different responses that can be made by non-government organisations. See, for example, the remarks by John Brinkerhoff in Strategic Outreach Conference Report: Warning for National Responses in the 21st Century, SSI/Strategic Studies Institute, US Army War College (August 18-19, 1994). See also the study by Michael Lund, Preventing Violent Conflicts: A Strategy for Preventative Diplomacy (Washington, DC: United States Institute of Peace Press, 1996).
- engage the targeted States in sustained dialogue. Establish clear and reliable channels for the exchange of communications.

- take measures to reduce potential political/diplomatic/economic/strategic costs that could result from the emerging crisis in the domestic or international arena.

- conduct consultations with key States and Allies. Raise the issue in the United Nations and other appropriate international fora.

- undertake a public information campaign to inform populations at home and abroad of the unfolding circumstances. Prepare the public for possible coercive diplomacy or military action.

- conduct a decision rehearsal, i.e., rehearse the decision problem that one would be confronted with if the warning proved accurate. A rehearsal involves (a) assessing the damage to important economic and strategic interests should the crisis erupt (something that policymakers have done very poorly in many past crises); and (b) anticipating the political and psychological pressures that are likely to be brought to bear upon policymakers should the crisis occur.

- consider and, if necessary, clarify one’s commitment to take action should the crisis emerge. Warning can have the useful function of encouraging policymakers to identify and assess the complex interests that may be jeopardised if the crisis develops. Such a review may also result in a timely redefinition and clarification of existing commitments, identifying and separating issues that are peripheral and easily negotiable from those that are central and more demanding.

- review, update and rehearse existing contingency military plans. Improvise new policy options tailored to the emerging crisis, taking into account potential actions of other States with interests at stake.
- initiate formal negotiations, efforts at conciliation and mediation. On many occasions, for example, the UN Secretary-General’s Office responds to early warning by sending out fact-finding missions or by extending its ‘good offices’.

The preceding list of response options characterises, in general terms, the types of responses available to decision makers and is provided as illustration rather than prescription. More specific options must be identified in policy planning tailored to the type of situation and problem that is envisaged by the warning. Obviously, different types of incipient crises will require identification of different response options.\textsuperscript{291}

This necessarily brief list should not obscure the implied steps that each measure entails. For example, using military demonstrations to underscore one’s seriousness of purpose must be balanced against the desire to control the level of engagement (and avoid a ‘slippery slope’).

So much of this list seems like straightforward policymaking. What I intend to emphasise, however, is the need for an explicit effort to map various responses to anticipated developments - before those developments occur - and to associate particular response options more closely with foreseeable cues.\textsuperscript{292}

**Missed Opportunities**

Those who call attention to failures to take timely, appropriate actions in response to early warning of an emerging crisis often refer to them as *missed opportunities*. The clear implication is that it might well have been possible to avoid or limit the development of a major crisis - whether a violent ethnic or religious conflict, a humanitarian catastrophe, or a

\textsuperscript{291} A recent World Bank report provides a very interesting example of the possible use of differentiating early warning signals with respect to identifying (a) different possible adverse consequences, and (b) appropriate preventative actions for each such consequence. Nat J. Colletta, Markus Kostner, and Ingo Wiederhofer, *The Transition from War to Peace in Sub-Saharan Africa* (Washington, DC: The World Bank, 1996), see especially pp. 32-38.

\textsuperscript{292} These cues do not necessarily need to occur to be foreseeable; indeed, early preventative measures may mean that they never occur.
gross human rights violation - if only the international community or an external actor had intervened.

A word of caution may be in order here. ‘Missed opportunities’ implies that the ‘misses’ constitute important policy failures of various kinds. Indeed, it is difficult, if not impossible, to avoid the analytic conclusion that such ‘failures’ contributed measurably to a worsened situation on the ground. This assumption, that a crisis situation is the measure against which policy decisions and their aftermath are judged, may contribute to analytic clarity, but it fails to represent adequately all of the factors that constrain policy decisions - especially in times of crisis. Indeed, as I have tried to illustrate, factors unrelated to the crisis situation (domestic elections, perceptions of credibility and other strategic concerns, or other international problems) can affect a decision maker’s receptivity to warning more than the circumstances causing the alarm - even when the warning is ‘loud and clear’. Moreover, these other factors are frequently perceived by decision makers not only to be legitimate to take into account, but also they are often seen as more legitimate considerations than the circumstances on the ground. Indeed, decision makers most closely associated with many of these so-called missed opportunities resulting in policy ‘failures’ often strongly resist that indictment, arguing instead that their action (or wise restraint) was in the best interest of the public that they serve. Thus, even as the following discussion focuses on the crisis situation as the main measure of the effectiveness of actions taken (or not taken), it is important to recognise the tensions that exist within the full context of these situations.

The assertion that a missed opportunity occurred is an example of counterfactual reasoning, a practice that is very frequently resorted to in everyday life, as well as in serious analysis of historical outcomes. However widespread and, indeed, indispensable, counterfactual analysis is recognised to be a very weak, problematical method. This is not the occasion to discuss recent efforts by other leading scholars to identify requirements for more disciplined uses of counterfactual reasoning. Suffice it to say that statements that missed opportunities occurred in cases of failure of preventative diplomacy must be evaluated carefully to distinguish highly plausible from implausible or barely plausible claims. Efforts to do so are
necessary not merely to improve historical analysis of cases in which preventative diplomacy was not attempted or was ineffectual; rather, more rigorous counterfactual analysis is necessary also to draw correct lessons from such failures.

A purposeful start in this direction can be made by distinguishing different types of missed opportunities. The following is a comprehensive, but not exhaustive, listing:

- cases in which there was no response to warning by policymakers, who either ignored the warning or regarded it as insufficiently reliable, too equivocal, or uncertain (example: Iraq’s 1990 invasion of Kuwait).

- cases of inadequate analysis of ample warning indicators, and, thus, an inaccurate forecast of what was to occur (examples: the 1979 Iranian revolution; the 1968 Tet offensive of the Vietnam War; the North Korean attack on South Korea in June, 1950).

- cases of inadequate response to warning, either too slow or too weak (examples: slow international response to the developing crisis in Somalia; slow, graduated sanctions against Serbia).

- cases of misused opportunity involving responses of a misconceived, harmful, inappropriate character (example: European Union recognition of Croatia without securing a prior guarantee of the rights and interests of its substantial Serbian minority).

- cases of inconsistent responses (example: in the unfolding crisis in Yugoslavia, European countries were often at cross-purposes, such as in 1991 when they tried to serve as mediator between Serbia and Croatia while pushing international recognition of Croatia and the imposition of sanctions on Serbia.)

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293 See, for example, Philip E. Tetlock and Aaron Belkin, *Counterfactual Thought Experiments in World Politics*. 328
cases of *incomplete response* to a complex crisis (example: Somalia, where the international community undertook to deliver humanitarian assistance but refused to engage in peace enforcement efforts.)

cases of *contradictory responses* (example: efforts by some States to install peacekeepers in Nagorno-Karabakh were undermined by other States opposed to such a move.)

In addition to some such typology of different types of possible missed opportunities, we need, as noted earlier, some way of assessing the merits of claims that there was, indeed, a missed opportunity to avoid the disaster that followed. Counterfactuals are a way of rewriting history (exploring the possibility of an alternative outcome) by conducting a mental experiment - i.e., 'if only this rather than that had been done, the outcome would have been quite different'. Some counterfactual assertions are more plausible than others. Those of us who believe in the necessity for timely responses to early warning may inadvertently exaggerate the plausibility of a missed opportunity in cases that developed into major conflicts and severe humanitarian catastrophes.

Several suggestions can be made for assessing the plausibility of assertions of a missed opportunity. A basic distinction needs to be made between two connotations of ‘opportunity’. One use of the term implies that a significantly better/good outcome would surely have been achieved if it were not for...., or if only this rather than that had been done. A weaker connotation of the term ‘opportunity’ is that a better outcome was possible; it might have been achieved if.... A still weaker connotation states merely that a better outcome was possible, but without indicating what might have been done to secure it. In making assertions of a missed opportunity and, of course, in evaluating such claims, it is important to keep this distinction in mind. Frequently, critics who identify a missed opportunity blur this distinction.

Admittedly, it is often difficult to judge the degree of confidence that can be ascribed to what appears to have been a missed opportunity. Practitioners who engage in efforts at preventative

diplomacy may well regard these distinctions as just an academic exercise. It must be recognised that those who engage in preventative actions often do so without demanding of themselves that they be able to predict outcomes with high confidence; and they make what they regard to be appropriate efforts and use what leverage they have to positively influence the course of events. They reason that when the stakes are high, one must make efforts to influence the course of events, even when prospects of success are highly uncertain. It is only human to believe that adverse outcomes might have been avoided or moderated, if only ....

Such explanations for what may be dubious claims on behalf of a particular missed opportunity leave us with the task of developing reasonable ways of evaluating them. To construct a good counterfactual analysis of a missed opportunity one needs to start with a good explanation of the actual outcome of the case at hand. This step is important, obviously, because the counterfactual changes what are thought to be the critical variable(s) that presumably accounted for the historical outcome. If one has an erroneous / unsatisfactory explanation for it, then the counterfactual analysis that argues that a better outcome was possible, ‘if only ....,’ is likely to be flawed. Both the historical explanation and the counterfactually derived alternative to it are likely to be more correct or plausible if they are supported by relevant generalisations (and sound theory).

In formulating hypothetical missed opportunities and in evaluating them, at least two questions need to be addressed: first, was the alternative action possible at the time and known to be possible, or was it something that one could only see in retrospect. If the latter, then the claim of a missed opportunity is weakened since it rests on the argument that alternative action could have and should have been seen at the time. Missed opportunities that rest too heavily on hindsight carry less plausibility but, of course, such claims should not be dismissed completely if one wants to draw useful lessons from such experiences. An after-the-fact identification of an action or strategy not known or considered at the time can still be useful in drawing such lessons.

Missed opportunities differ, too, depending upon whether the alternative is a simple, circumscribed action or whether it is a sequence of actions over time. In the latter case, counterfactual reasoning involves a long, complex chain of causation involving many
variables and conditions, all of which would have to fall into place at the right time for the missed opportunity to be realised. The plausibility of a missed opportunity is enhanced, in contrast, when the chain of causation is shorter and less complicated. A missed opportunity is obviously less plausible when it rests on the belief or expectation that a different set of actions could have occurred over time and overcome a series of obstacles, thereby achieving a successful outcome.

The second question is: was there at least one or a few decisive turning points? Those who take a ‘path dependent’ view of history point to the importance of ‘branching points’ in a developing situation. At such points, once events start down a certain path, all possible future outcomes are not equally probable. If an analyst who asserts that there was a missed opportunity does not provide a plausible scenario of how the outcome could have been more favourable, then it is not yet a strong candidate for a plausible missed opportunity.

Those of us interested in assessing possible missed opportunities more rigorously may find it useful, if not indeed necessary, to keep such distinctions in mind. At the same time, we believe that the difficulties of assessing missed opportunities should not discourage us from efforts to do so. It is not that we are interested in rewriting history per se. Rather, careful study of possible missed opportunities is necessary if we are to learn from such experience.294

**Conclusion**

In this chapter the author has argued, with examples, that policymakers must cultivate an integrated strategy that develops potential responses with anticipated warnings. The need to do so will only increase as people increasingly expect their Governments to do something about crises that they surely see as coming. The author believes that it has become implausible for Western governments to claim that they ‘didn’t know’ that something on the scale of Kosovo, Bosnia, Rwanda or East Timor could happen. Similarly, claims that ‘nothing could

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294 This is the objective of a study for the Carnegie Commission, *Opportunities Missed, Opportunities Seized: Preventative Diplomacy in the Post-Cold War World*, edited by Bruce W. Jentleson, and published in 1997 by Towman & Littlefield (Boulder, CO). Some problems of obtaining and using warning by NGOs in humanitarian crises are discussed in Robert I. Rotberg, ed., *Vigilance and Vengeance*. 331
be done’ ring hollow when coming from such advanced, wealthy States. These States, *including Australia*, cannot prevent every conflict, but they would do well to strengthen their *moral and political* ability to act responsibly and in a more timely manner.
Chapter 10 – Rwanda as an Illustration of a Missed Opportunity of Prevention Through the Early Deployment of Force

Introduction

The experience in Rwanda was a watershed for the international community, the United Nations and, least of all, the contributors to the United National Assistance Mission for Rwanda. However, no one noticed that it was a watershed at the time. It was seen as too difficult and not of sufficient interest and value to prevent the outbreak of violence, and once violence had broken out, it still was not of sufficient interest to warrant the expense of resources and risk of more casualties to stop the violence from spreading. While others remained focused on the world's other crises, the people of Rwanda were forgotten. It was not really until the international community noticed tens of thousands of refugees in eastern Zaire, with thousands dying daily of cholera, that they felt truly compelled to act. This three-month delay cost the lives of 800,000 innocent Rwandans, and countless scars and disfigurement for those who lived through the horrors. Like the crisis at the time, the need for a response mechanism and the consequences of not looking for solutions are guaranteeing the recurrence of other humanitarian catastrophes now and into the future, including the current humanitarian crisis in East Timor.

Is this a lesson that we need to have taught to us a second time in East Timor? Do the members of the international community really require that more innocent women and children be slaughtered by the thousands to cause a change in our priorities and level of concern? When the sanctity of human rights can be so blatantly violated and remain tolerated by the international community, there is a problem of such seriousness that words alone cannot explain. I remain mystified that human life, the security of noncombatants, and the prevention of such horrors as the genocide in Rwanda are, sadly, not sufficient to act as a catalyst for a swift and determined response from the international community.
I often ponder the possible solutions to the many problems that the international community and the UN faced in the spring and summer of 1994 in Rwanda, and am convinced that it is imperative that these solutions be found quickly. It would be immoral if not outright criminal to allow another tragedy to occur by failing in our collective responsibility to humanity at large. The ingredients and recipes for solutions currently exist but remain in want of a sponsor, a leader with moral determination to bring together the political, the humanitarian, and the security structures and disciplines in synergistic applications of innovative thought to this requirement to respond to human dignity rather than base national self-interest.

It behooves us to take the horrible lessons of the Rwandan debacle and prevent future genocide by formalising a pragmatic and cohesive multi-disciplinary prevention capability. The killings could have been prevented if there had been the international will to accept the costs of doing so even after the politically difficult losses of peacekeeping in Somalia and the ad hoc confusion of April 1994. We need to use our processes to achieve the aim of assisting humanity, as opposed to preserving our processes at the expense of humanity. The coalition of like-minded free nations, with well-developed doctrines respecting human rights, should form the nucleus of a rapid reaction capability for the United Nations to bolster its ability to keep the peace. The looming threat of overwhelming international retribution is still required to keep in check some of the impulses of hate-filled elements. The international community must be prepared to come to the aid of humanity in a swift yet effective manner. What remains lacking, what is absent, is the moral will to implement such solutions. We must all strive toward this goal or continue to repress the collective guilt and wash our hands that have been stained with the blood of so many innocent victims of power-hungry and ruthless extremist governments.

The example of Rwanda is presented here as a powerful illustration of how the loss of over one million lives might have been avoided if the strategies being advanced in this thesis had been followed. In this case, this would have previously involved the sending in of as few as 5,000 UN peace keepers during the window of opportunity (7-21 April, 1994), when the
political leaders in Rwanda were still susceptible to international influence.

*Responding to the situation that confronted him at the time, Canadian Major General Romeo Dallaire, Commander of the United Nations Assistance Mission for Rwanda (UNAMIR), commented that with 5,000 troops and the right mandate, he could have prevented most of the killing.*

- Senators Paul Simon and James Jeffords, members of the Senate Committee on Foreign Relations, in a 13 May 1994 letter to President Bill Clinton reporting on hearings of the Subcommittee on African Affairs.

On 6 April 1994, President Juvenal Habyarimana of Rwanda and President Cyprien Ntaryamire of Burundi were killed when their aircraft was shot down as it approached Kigali, the capital of Rwanda. Within hours, violence broke out in the city and the surrounding communities. Some observers initially assumed the violence to be random acts by people taking advantage of the momentary lapse in law and order, but many on the ground knew better. Their worst fears soon were confirmed. Army units, including the Presidential Guard, the militia and mobs soon set up roadblocks. These elements, dominated by extremists from the Hutu ethnic group, targeted moderate Hutu and members of the Tutsi ethnic minority for execution. Local political leaders, police, and soldiers, with lists identifying those to be killed, went from house to house. The Prime Minister of Rwanda and the ten Belgian members of the United Nations Assistance Mission for Rwanda (UNAMIR) sent to secure her were murdered. A battalion of the rebel Rwandan Patriotic Front (RPF), stationed in the capital pursuant to the Arusha Peace Accords to protect opposition leaders during the transition to a new government, broke out of its compound and began to skirmish with members of the Presidential Guard. Other RPF forces left assembly areas near the demilitarised zone in the north of the country and advanced on the capital, engaging Rwandan Government Forces (RGF). The RPF refused to cease operations until the violence targeting moderate Hutu and the Tutsi ended. The RGF argued that it was making every attempt to halt the mass killings but could not restrain the rampaging extremists because most of its forces were defending against the RPF advance.²⁹⁵

²⁹⁵ UNAMIR situation reports and correspondence among personnel in the field, UN headquarters, and UN agencies are archived in the Department of Peacekeeping Operations, Lessons Learned Office, United Nations, New York. The RPF battalion was in Kigali to secure the opposition leadership during the establishment of a
Repeated attempts by the commander of UNAMIR, Major General Romeo Dallaire, and the special representative of the UN Secretary-General, Jacques Roger Booh-Booh, to bring the parties back to the peace process met with failure. The situation spun out of control as UNAMIR was repeatedly weakened, first by the withdrawal of the Belgians, who openly advocated a complete withdrawal of UNAMIR, and then by the timid response of participating nations. With the notable exception of Ghana, governments instructed their UNAMIR contingents to protect themselves at all costs, even if that meant standing by while lightly armed, drunken thugs hacked women and children to death. Those who had cash could buy a quick death by firearm; those who could not received a less costly and less sophisticated execution by machete, stoning, or burning. The United Nations, stung by the intervention in Somalia, fearful of another mission of ambiguous intent, participation, and support, and hampered by the sovereignty issues raised by member States, did not take decisive action to intervene. Individual member States in a position to act also delayed unilateral measures. Within three months, UNAMIR was reduced to 450 personnel between 500,000 and 800,000 Rwandans, mostly Tutsi, were dead; 700,000 Rwandans were displaced within the country; and over 2,000,000 Rwandans had fled to surrounding countries. More human tragedy was compressed into three months in Rwanda than occurred in four years in the former Yugoslavia.

Much of the violence racking the world since 1989 has been attributed initially to ethnic and religious causes, rooted in immutable history, or to the unavoidable release of tension or redress of grievances held too long in check by the last vestiges of colonialism or the bipolar international structure. The conflicts in the former Yugoslavia and Rwanda, for example, have broad-based transitional government. It was not to be demobilised and integrated with the new army prescribed in the Arusha Peace Accords until well into the transitional period.


298 UNAMIR's mandate was reduced to 270 personnel but never fell below 450 because of the requirement to secure the airport as a logistical terminus and to secure almost 25,000 refugees and internally displaced persons at the Kigali stadium, the King Faisal Hospital, major hotels, and other sites.
had ethnic, religious, historical and broad social components, but they also have had a strong, immediate political component. In these cases, the precipitating motivation for conflict stemmed from actions designed to achieve political goals. Leaders within factions steered the conflict toward violence, tapping into long-standing, deep-rooted ethnic and religious tension as an accelerator. Later, those historical and ethnic forces surged out of control, fed by momentum, suffering, and acts of retribution. Indeed, in many cases that is what the initiators may have wanted. But if the proximate causal factors were political, then the violence began as the result of choice, and such choices can be influenced.

With that in mind, the Institute for the Study of Diplomacy at Georgetown University undertook a project to consider whether the introduction of international military force into the situation in Rwanda in 1994 could have had any effect on the situation there and what the nature of such an intervention might have been. A panel of specialists, including the author, then assessed General Dallaire’s thesis and addressed the following questions:

- What actions could a military force have taken to forestall violence?

- How large a military force would have been needed and how should such a force have been organised, trained, and equipped?

- When was the most appropriate time for sending a military force, and what was the relationship between the timing of interventions and the kind of force required?

Based on the presentations by the specialists and other research, I believe that a modern force of 5,000 troops, drawn primarily from one country and sent to Rwanda sometime between April 7 and 21, 1994, could have significantly altered the outcome of the conflict. Although

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the organised combatant factions in Rwanda were fairly capable light infantry and such an operation would have entailed significant risk, the introduction of a combat force large enough to seize, at one time, key objectives all over the country would have, in the words of one senior officer, ‘thrown a wet blanket over an emerging fire’. More specifically, forces appropriately trained, equipped, and commanded, and introduced in a timely manner, could have stemmed the violence in and around the capital, prevented its spread to the countryside, and created conditions conducive to the cessation of the civil war between the RPF and RGF.301

**History of International Involvement in Rwanda**

The United Nations Assistance Mission for Rwanda was established by the UN Secretary General and the Security Council in the fall of 1993 to oversee what many hoped would be an end to a four-year domestic war. In the name of a ‘democratic’ majority, the Hutu-dominated government in Rwanda had repeatedly reduced the rights of the Tutsi minority and their role in the society. Moreover, systematic corruption and looting of the public purse had prevented economic gain for all but a favoured faction of the Hutu majority. Rather than creating serious cleavages within the Hutu group, the leaders of the country had deftly directed frustration toward the Tutsi minority.

The periodic outbursts of ethnic violence that have punctuated the long-standing, conflictive relationship between Hutu and Tutsi increased in frequency after Rwanda’s independence

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301 It is difficult to demonstrate an empirical link between timely intervention and reduction in the spread of conflict. Success results in a “non-event”. Practitioners and observers, however, acknowledge an intuitive attraction to the concept. “A timely intervention by a relatively small but highly trained force willing and authorised to take combat risks and representing the will of the international community could make a decisive difference in the early stages of a crisis,” stated Brian Urquhart, former UN under-secretary for Special Political Affairs, who has extensive peacekeeping and conflict resolution experience. Quoted by Senator Carl Levin in: US Senate Committee on Armed Services, Subcommittee on Coalition Defence and Reinforcing Forces, International Peacekeeping and Peace Enforcement, 103rd Cong., 1st Sess., July 14, 1993, p. 38. Scholars, observers, and practitioners have differing views on the rate of the spread of violence in the Rwandan situation and the width of any intervention “window”. But even those who have reservations about how much time was available to intervene do not reject the existence of a window of opportunity for action.
from Belgium in the early 1960s. Many Tutsi fled the country during these periodic outbursts and settled in surrounding countries. In 1986 Tutsi expatriates assisted the victors in a Ugandan civil war and in 1990 began to attack the Rwandan government from bases in that country. In response, the United Nations, proceeding in optimistic incremental stages, supported, but did not lead, a long regional process designed to encourage the Hutu-dominated government to deal with the Tutsi expatriates and the moderate factions in Rwanda.

The UN attempted to support negotiations by establishing an early presence in the region with the United Nations Observer Mission Uganda/Rwanda (UNOMUR). UNOMUR’s objective was to monitor the Uganda-Rwanda border from the Ugandan side and assist in the reduction of weapons traffic and violent incidents. Disagreements between the UN and Uganda over the status of forces, however, delayed UNOMUR’s deployment, and the mission’s operational effectiveness was overtaken by events and the deployment of UNAMIR.

Prodded by the UN, the Organisation of African Unity (OAU), and surrounding countries, the government of Rwanda and the RPF finally reached a settlement in August 1993 at Arusha, Tanzania. The parties to the Arusha Peace Accords pledged a cessation of hostilities, repatriation of refugees, and installation of a new broad-based transitional government. They also called for an expanded UN presence to support implementation of the Arusha framework. Provisions were made for demobilising many of the military forces involved, the integration of the remainder into a new army, and the re-entry of the Tutsi minority into a legitimate government. The UN therefore established UNAMIR under General Dallaire, who had commanded UNOMUR. In the months that followed, UNOMUR was integrated into the emerging structure of the peacekeeping force and follow-on forces (primarily Belgian, Ghanaian, and Bangladeshi) deployed through late 1993 and early 1994. The force eventually reached a strength of about 1,500. National contingents were deployed in Kigali, where they established a weapons-free area; in the demilitarised zone in the north, to demobilise the

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combatants and train the new army; and with the field forces of the RPF and RGF to observe and report any movements.\textsuperscript{303}

The peace process, however, continued to stumble. On December 28, 1993, a battalion of the RPF arrived in Kigali to provide security for members of the opposition as they took their place in the government. On January 5 President Habyarimana was sworn in, but from that point on, obstacles to progress mounted. Among other things, violent incidents occurred throughout the country, usually just as a deadline for achieving a concrete measure of progress approached. These incidents served as a pretext for both parties to balk at implementation steps, to question publicly the sincerity of their opposite number, and to strengthen their factions for continued violent struggle. The upheaval produced by an earlier event in Burundi only added to the pressure to implement the framework while simultaneously destabilising the situation: Tutsi rebels had staged an abortive coup in October 1993, killing the elected Hutu president. The ensuing violence forced 500,000 refugees from Burundi into southern Rwanda during a drought, adding a significant issue to the number of crises in the making.

In the months leading up to the death of President Habyarimana in April 1994, UNAMIR carried out its deployment operations and, despite the continuing instability, accomplished several intermediate objectives. It established the Kigali Weapons Secure Area which was secured by the Belgian and Bangladeshi battalions; deployed UN military observers to monitor RPF and RGF elements along the demilitarised zone; and positioned the Ghanaian battalion between the belligerents. Steps to demobilise the combatants and to reorganise the army in the field were to commence three months after the new transitional government was established. The UNAMIR command, however, was consumed by the daily logistics of sustaining the force itself and the RPF battalion in the capital and by a series of emergencies, such as the coup in Burundi and the resulting refugee crisis. As a result, detailed planning and implementation activities were pushed into the background. Most important, UNAMIR lacked the capability to conduct thorough covert intelligence analysis. The small contingent of intelligence personnel provided by the Belgians could not discern the degree of political

\textsuperscript{303} UNAMIR situation reports; interview with Major General Romeo Dallaire, Canadian Forces headquarters, Ottawa, December 16, 1996; and General Dallaire's presentation at a panel discussion on military options in
organisation or sophistication of those opposed to the peace process, nor could it assess the capabilities of the *interahamwe* ('those who stand together' - the irregular militia organised, trained, and equipped by units of the RGF and often led by local political leaders) or the degree of support that factions in Rwanda were receiving from outside the country.

Adding to its problems, UNAMIRs supply and sustainment situation never progressed beyond the critical point. There were no stocks of water, food, ammunition, fuels and lubricants, and repair parts, nor were there the skilled mechanics and logisticians to support the force in the field. Civilian contractors provided communications support consisting of a variety of equipment, including hand held, unsecured radios and local telephones. While national and UN bureaucracies were negotiating reimbursement rates, UNAMIR was finding that its logistics arrangements severely constrained its ability to conduct extensive operations in support of the peace process.\(^{304}\) Even had the command been able to develop adequate warning of impending violence and to develop plans to anticipate and head off violence, there was no guarantee that it had the capability to act in a pre-emptive manner or to sustain effective operations.

General Dallaire's assessment of the situation in April 1994 has since been substantiated:\(^{305}\) the rapid spread of violence just after the death of the president was primarily a 'political decapitation' of Hutu moderates and Tutsi in and around the capital. The killings, probably including that of the president, were directed by extremists within the deceased president's own party and were designed to disrupt the peace process permanently. The perpetrators carried out their attacks by direct assault on opposition targets and then by uprooting the entire population and 'straining' the refugees through a system of intermittently established roadblocks. To encourage the Hutu moderates and the Tutsi to leave their communities, the State-controlled radio broadcast clearly inflammatory messages in the months leading up to April 6, demanding the expulsion of the Tutsi and exhorting the Hutu majority to fill the

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\(^{304}\) Ibid.

Rwanda in the spring and summer of 1994, Georgetown University, Washington, DC, January 23, 1997. (The author was a participant in this discussion).
rivers of the country with Tutsi dead (referred to as inyenzi, or cockroaches). The inflammatory broadcasts were in the native language, while much more tempered and conciliatory broadcasts and statements were in French, obviously for foreign consumption. These broadcasts continued throughout the crisis sparked by the president’s death and fuelled continued killing with a constant undertone of hatred. The perpetrators intensified their series of attacks on local moderate political leaders, even those in the president’s own party. Extremists in the Government had obtained lists of opposition party members, provided as one of the steps toward determining proportional representation in the new legislature. Thus, throughout the winter and spring of 1994, apparently random attacks became more focused, and reports of training, arming, and targeting by the Hutu interahamwe continued. The population, primed for flight by the radio broadcasts, began to move as village leaders and politicians from moderate opposition parties were slain and police, neighbours, and even clergy participated in the murders.

When the RPF began its offensive, the panicked Tutsi on the roads were joined by thousands of Hutu who feared reprisals. This population upheaval benefited the extremist leaders, who hid within the mass of refugees, left the country with them, and later seized control of the refugee camps in Zaire. They were supported (unintentionally, but not unknowingly) by aid from humanitarian agencies and began to train forces and plan for a counteroffensive to regain the country. The humanitarian disaster that followed dwarfed the resources of aid agencies and created a festering situation in the refugee camps that was difficult to resolve.\footnote{306}

\textit{A Proposed Mandate and Intervention Force}

In response to the April 1994 crisis in Rwanda, General Dallaire sought unsuccessfully to reverse the defensive orientation of his national contingents, obtain reinforcements, stop the genocide and bring the parties back to the peace process. This chapter, then, describes the


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mandate and the force that General Dallaire thought sufficient to quell the violence in the country at the time and to return the participants to the Arusha peace process.\textsuperscript{307} It also outlines the operational plan he would have undertaken had sufficient forces been provided in April 1994. Later sections present an alternative plan based on discussions with other specialists. The chapter ends with a description of the characteristics of a generic force and an analysis of how and by whom such a force could have been generated.

Threats to any force intervening in Rwanda in 1994 could have been expected from both belligerents and armed civilians. The mass violence in Rwanda was a planned, encouraged, and systematic genocide, largely conducted by lightly armed militia and civilians occasionally assisted by members of the gendarmerie and army. This violence preceded conventional combat operations by the RPF and RGF and continued after this combat started. Other factors bearing on military operations were the role of the political parties, the refugee / displaced person crisis, the security of the humanitarian operations underway in the area, and the eventual resumption of the Arusha peace process.

The military component of the operation in Rwanda, while receiving the most attention because of the nature of the crisis, was but one aspect of a comprehensive political, diplomatic and humanitarian approach. Specialists, including the author, noted the significant differences between the situations in Rwanda and Yugoslavia in the strategic environment and the respective directions given to UNAMIR and the Dayton Accord Implementation Force. In Rwanda, the military operation was established in an \textit{ad hoc} fashion to support a predesigned political framework. UN military forces preceded UN political staff into Rwanda by several months. In contrast, the military component of the peace settlement in Yugoslavia was conceived as an integrated part of a comprehensive approach to resolving the conflict. Despite the difficulties faced by civilian agencies in meeting the timetable in the former Yugoslavia, the relationships among the military, diplomatic, and economic components of the framework were addressed in concept.\textsuperscript{308}

\textsuperscript{307} This chapter is conceived from a briefing presented by General Dallaire at the January 23 conference at Georgetown University. Subsequent concepts are reported from conference participants, including the author who participated on a nonattribution basis.

\textsuperscript{308} Alan J. Kuperman, "The Other Lesson of Rwanda: Mediators Sometimes Do More Harm than Good", SAIS Review 16, No 1 (Winter/Spring 1996), pp. 221-240, provides a very interesting look at the perceptions and
General Dallaire’s proposal for a successful intervening force in Rwanda originally envisioned that the strategic directive for such a force would be adopted under Chapter VII, rather than Chapter VI, of the UN Charter and would comprise five ‘decisive’ or critical elements. The force would be directed to: (1) stop the genocide; (2) conduct a peace enforcement mission; (3) assist in the return of refugees and displaced persons; (4) ensure the successful delivery of humanitarian aid; and (5) assist in a cessation of hostilities. Co-ordination of the political, diplomatic and economic components of the strategy would depend on fulfilment of six measures of success: (1) bringing a halt to the genocide; (2) permitting the return of refugees and displaced persons to their homes; (3) ensuring the routine safe delivery of humanitarian aid; (4) establishing a cease-fire; (5) facilitating a return of the responsible parties to the Anisha Peace Accords process; and (6) providing a secure environment for the establishment of a broad-based transitional government.

Based on that strategic directive and those measures of success delineated by the competent political authority, General Dallaire proposed the following mission statement for an intervention force in Rwanda:

The Intervention Force will conduct operations in Rwanda under Chapter VII of the United Nations Charter to re-establish peace and security, thereby facilitating a return to the Peace Process of the Arusha Accords and assisting in the establishment of a Broad-based Transitional Government.

actions taken by the parties and the outside participants in Rwanda. The combination of pressures and the differences in perceived costs and alternatives between the mediators and the extremists contributed to the establishment of measures that went far enough to threaten the ruling elites but not far enough to prevent them from resorting to violence to retain their power.

309 Chapter VI of the UN Charter, “Pacific Settlement of Disputes”, enjoins the parties to an international dispute to “first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means”. The UN Security Council can recommend or implement supportive actions, such as the establishment of UNOMUR or UNAMIR, when one or more of the parties report failure in their peaceful efforts to resolve the dispute. Chapter VII, “Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression”, provides a basis for greater action. Article 42 enables the Security Council to “take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security”. For the development of the mandate that authorised UNAMIR, see United Nations and Rwanda, Document 19 (letter from the permanent representative of Tanzania transmitting the Arusha Peace Accords), pp. 169-201, especially the role envisioned for the “Neutral International Force”, pp. 192-198; Document 21, pp. 217-220; Document 23 (the Secretary-General’s request to establish UNAMIR), pp. 221-231, Document 24 (Security Council Resolution 872 authorising UNAMIR), pp. 231-233; and General Romeo Dallaire, “Force Directive No. 10, Rules of Engagement”, unpublished draft of UNAMIR document
Although the measures of success are broad, General Dallaire envisioned that failure in any one of four critical tasks would result in continued killing: (1) preventing the genocide; (2) protecting the people so that they could return to their homes; (3) providing security for the flow of humanitarian aid; and (4) providing a secure environment facilitating the cessation of conventional hostilities. To accomplish these critical tasks, the military force would need to undertake several subordinate, supporting tasks. Rules of engagement would permit the force to take offensive action, including the use of deadly force, to prevent continued genocidal killing. In concert with the application of force where necessary, all the rear-area non-combatants would be disarmed and their weapons collected and controlled by the intervening force. The force, together with a growing UN police support detachment, then would begin to gather information and secure witnesses as a prelude to the prosecution of the perpetrators. The exact uses of this information would be determined as part of the political settlement and the arrangements made for reconciliation and judicial redress of criminal acts.

Security would need to be provided at specific sites for those threatened by violence. This probably would result in the establishment of separate sites for the ethnic groups, as retribution and retaliation could be expected. An essential element in providing security for the population would be stabilising the movement of refugees and displaced persons because in 1994 the displacement of the target population gave the killers the opportunity to select victims as they passed through roadblocks.

The design of tactics and measures appropriate to the situation would be a major consideration in planning such an intervention. The intervening force should not operate under ambiguous concepts that may carry political weight or elicit public condemnation of the mission. Each intervention situation is unique in its details and therefore requires discrete analysis and innovation to achieve success. For example, according to General Dallaire, in Bosnia there were ethnic concentrations, but in Rwanda the situation was much more homogeneous; both ethnic groups were evenly distributed throughout the country. Therefore, the concept of safe havens was not as appropriate in Rwanda as in Bosnia.

dated October 1993. It should be noted that General Dallaire’s rules of engagement were submitted in draft to
A *safe haven*, as the term was used in Bosnia, suggested a pre-existing concentration of a targeted population within a geographic area. The provision of security for the concentrated population gives the outlying, at-risk members of the ethnic group a destination toward which they can move to obtain protection. In Rwanda, where the population was thoroughly mixed, the attackers could not target certain villages or wide swaths of terrain. Killing the ethnic minority required more detailed knowledge and a more discretionary application of force. This led to the tactic of displacing whole villages and, as the moving population encountered roadblocks and checkpoints or gathered at large central buildings such as churches, separating villagers marked for death. Under these circumstances, measures to prevent people from leaving their villages would be extremely important; ‘safe sites’, smaller and more easily defended community groupings, would be the best way to stabilise and secure the population in Rwanda.

*Such a concept could have been successful.* Even the greatly reduced UNAMIR force of 450 provided significant security for thousands of displaced persons in the capital area. The French in Operation Turquoise were able to significantly stabilise the situation in southwestern Rwanda in late June 1994. That intervention was not without its difficulties and detractors, but thousands were saved without the loss of any French lives.310

The military force also would protect the refugees and displaced persons returning to their homes and provide security for the receipt, storage, transport, and distribution of humanitarian assistance. Convoy escorts, patrols and secure distribution centres would be required as the fighting drew to a close. After establishing general order and security in the rear areas where most of the killing was taking place, the force would then move toward the more traditional mode of peacekeeping, by dealing with the conventional belligerent forces, the RPF and RGF. In his operational plan, General Dallaire viewed the cessation of the genocidal violence as a necessary and sufficient precondition to the end of the domestic war and a resumption of the Arusha peace process. In his estimation, the RPF would have no incentive or rationale to

UN headquarters for approval but were never approved.
continue conventional hostilities once the violence had ended. Thus, the intervening force had
to stop the mass killings and then establish for itself a role as a ‘conduit’ for negotiations
between the military forces. This was especially important in 1994 as the two sides were much
more willing to talk to military personnel than to diplomats and politicians. As a conduit for
negotiations, the intervening force would provide a secure neutral environment for the
reestablishment of the peace process and security for the establishment of a broad-based
transitional government. As the ethnic violence decreased, the force would be prepared to
delineate a new cease-fire line, establish a new demilitarised zone and place itself between the
belligerents.

Responses to the Intervention Force

How would the warring factions in Rwanda respond to these measures? The intervening force
would meet resistance from one or more quarters upon deployment in the country. One should
expect that at least one of the belligerents would be opposed to the intervention, and both
might see the introduction of a robust force by third parties determined to end the violence
quickly as an obstacle to achieving their ultimate goal. The intervening force should anticipate
that the population and the belligerents would respond to the force in one of four ways. First,
either the RPF or the RGF, or both, would oppose the intervening force with all of their
military capability. Second, factions or subordinate units of either the RPF or the RGF would
oppose the intervention or block the intervening force at certain times or places as it attempted
to carry out its mission. Third, the force would encounter only sporadic opposition by
relatively unorganised local groups. Or, fourth, the force would meet no opposition.

In the event of the first possibility, General Dallaire thought that the intervening force would
have to be led by, and organised around, a self-contained national contingent with
augmentation from other countries. The force would make a forced entry by air, arrive
prepared for offensive combat operations, and be supported by an air bridge to Kigali airport.

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310 George Moose, Assistant Secretary for African Affairs, US Department of State, observed “The French
presence has been extremely critical in helping to arrest the erosion of the situation”. Quoted in Crisis in Central
Africa, p. 18.
Only the United States could mount such an operation, General Dallaire observed, but he also noted that the possibility of full opposition would be very remote. The political situation in the country and the estimated capabilities of the RPF and RGF reduced the probability of full opposition in the field.

The second possible level of opposition - blocking movement, small unit attacks, and intrusions - would be aimed at influencing negotiations or preventing the intervening force from entering certain enclaves. In such a case, a multinational force under UN direction, entering by air or land, could affect the situation. This force would be capable of combat but would not have to make a forced entry. It could be supported by a national logistic capability, and complemented by the US and UN contractors once it was established on the ground.

For the third possibility - sporadic local opposition by small ad hoc, uncoordinated bands - the original UNAMIR force, backed by broad-based and public political commitment by the international community and reinforced by units capable of defensive action to protect the population and facilities, would be able to achieve the force objectives. For the fourth possibility - no opposition to the force - the original UNAMIR forces with slight enhancement of certain capabilities in light weapons and mobility would suffice.

Given the nature of the belligerents and the type of fighting occurring in Rwanda in early April 1994, the most likely opposition would be periodic blocking and interference by small organised units from either the RPF or RGF. General Dallaire based his assessment on the capabilities of the two forces, their situation in the country at the time, the examples of the evacuation forces that entered Kigali in April to extract expatriates, and the French experience in Operation Turquoise. The operation, therefore, could be orchestrated around a multinational force operating in a phased combat operation to remove the pretext for violence and return the parties to the Arusha Peace Accords timetable.

*Intervention Phases*
The force employment under Chapter VII of the UN Charter required five battalions of infantry and associated support, including a small number of armoured personnel carriers for mobility, security and 'intimidation' value. In Phase I of the operation proposed by General Dallaire, two battalions would land by air in Kigali and secure the capital. Signals intelligence units and Special Forces teams would locate and silence the extremist radio stations and repeaters. A third battalion would move from Uganda down the eastern side of the country from Gabiro toward Kibungo. The objectives of these forces would be to stop all violence in the capital, return the RGF and RPF forces as far as possible toward positions they held before April 6, and reinforce the demilitarised zone to ensure separation of the conventional forces.

In Phase II of the operation, the two remaining battalions would move to secure the north-western portion of the country. One battalion focusing on the RGF forces would move south from Uganda through Ruhengeri to prevent the spread of violence outward from the capital. The final battalion would land by air in Kigali and move out from the capital to the west in the direction of Gitarama and Kibuye with the same objective. The battalion that secured the eastern part of the country would then move into Kigali as the force reserve. Thus, of the total five battalions in the country, two would secure Kigali, two would move to secure the north-west and west, and one would provide a reserve ready to move by air to reinforce any engaged force. Three battalions would arrive by air; two would move by ground transport into Rwanda from Uganda. Aviation assets would be positioned at Kigali airport, and associated logistics, engineering and support staff would begin to co-ordinate the security functions for the resumption of the peace process and support of the humanitarian relief effort.

In Phase III, the battalions moving west and south would continue toward Cyangugu, Gikongoro, and Butare. With Kigali relatively secure and the force headquarters established, four battalions would assume duties as sector headquarters. Battalions would be located with the RPF and RGF, in a newly established DMZ, and in the vicinity of the refugee camps. One battalion in the vicinity of Kigali would be designated as a reserve. In Phase IV, the priority would shift to control of refugee movement and support of the humanitarian aid effort. With the end of the genocidal killings and violence, the conditions would be set for the
implementation of a cease-fire, and force headquarters could serve as a main conduit between the military factions involved. The disarmament, demobilisation and integration training plans would be revised and implemented. In Phase V, the force would revert to operations under Chapter VI of the UN Charter, but would maintain its ability to respond to acts that threaten to disrupt the process or to harm the population. In Phase VI, the force would hand over responsibility to a peacekeeping force with a more limited mandate.\textsuperscript{311}

\textbf{An Alternative Plan}

Some specialists, including the author, have taken exception to the sequential nature of General Dallaire’s plan.\textsuperscript{312} Their objections concerned (1) the inability of the military force in such a situation to distinguish genocidal violence from conventional civil war violence; (2) the perceptions of support for the RPF that such a sequential plan would create; and (3) the uncertainty about how long it would take the RPF to recognise that the genocide had stopped and whether the RPF would actually cease a successful military offensive in response to a halt in the genocide. Their conceptual objection was that the plan left too much initiative to the belligerents. In their view, leaving political or operational manoeuvring room to the objective parties in a Chapter VII peace enforcement scenario posed unnecessary risks to the intervening force itself and placed success in the hands of those who had already demonstrated thorough disregard for the process.

Although Rwanda has been called an ‘ethnic conflict’, even the Rwandan killers had to check identification cards to select their victims. Some specialists, including the author, were concerned that in a highly fluid situation, with troops who could not distinguish any particular side in the conflict and with perpetrators armed with everything from machetes to automatic weapons, members of the force would not be able to distinguish among victims and perpetrators. Classifying violence and motive would be beyond the capability of soldiers on

\textsuperscript{311} For an analysis of military roles, functions, and missions in peacekeeping and peace enforcement, see Andrew J. Goodpaster, \textit{When Diplomacy is Not Enough: Managing Multinational Military Interventions} (Washington, DC: Carnegie Commission, 1996).

\textsuperscript{312} The following description of the plan was adapted from conference participants’ comments on General Dallaire’s plan. (The author was present at this conference.)
the ground, and taking time to establish such factors would slow the mission and endanger the victims and members of the force. If the mission was to stop violence, then all violence had to be targeted by the intervening force.

The situation in Rwanda called not for action by large formations of centrally directed troops, but for small, independent units to impose 'routine and habitual compliance' with specified requirements for behaviour. This complex task required individual assessment, decision and response, simple yet comprehensive rules of engagement and practice in applying the rules.

In addition, most of the killing took place behind RGF lines and the targeted population was composed of Tutsi and moderate Hutu. Thus, action to intervene against only the genocide would have been directed primarily at the Government forces and militia, creating the appearance of support for the RPF. Some specialists, including the author, felt that the only way to achieve objectivity and facilitate long-term success was to stop impartially all violent acts and to control movement of any faction or group, including the advance of the RPF. Some specialists were especially sensitive to the paradox that the intervening force would face. In 1994 the leaders of the Government forces stated that they were trying to stop the killing but that the diversion of troops to defend against the advancing RPF prevented them from stopping the genocide. The RPF was reluctant at the time to have any outside force intervene because they were winning and saw no reason to settle for a less-satisfactory negotiated settlement with the perpetrators; they had a chance to gain the entire country and bring the killers to victors' justice. Thus, in the view of some specialists, there was no guarantee that the cessation of genocide would necessarily lead to the cessation of the civil war and the rebel offensive. The intervening force, if directed in its operations to stop only the genocide, could run into the unenviable position of having its efforts viewed by the Government forces as assisting the rebels, and by the rebel forces as enabling the Government to devote more troops to the civil war. For all these reasons, the author would argue that while a more robust force (than Dallaire's proposed 5,000) was not required, a more aggressive employment concept was, however, necessary.
Some specialists also made cogent arguments for the entire force to be deployed into the country simultaneously, most preferably by air, with a mandate to shut down completely all acts of violence. The UN would announce that forces were coming into the country with the express purpose of (1) interposing themselves between the two conventional combatants, and (2) securing the capital and countryside by imposing a set of behavioural standards on all elements of the population. Those favouring this approach argued that a total of 5,000 troops would still be about right, but that the mix of units would be different. Tactical and strategic air mobility would be vital, and would require a more mobile core of infantry and support helicopters. The opposition that this force might face because of its publicly stated mission was then addressed by those specialists who had been in Rwanda in 1994. They had observed the reaction to the evacuation forces in early April and to the French in Operation Turquoise in June and July. It was clear to them that a determined, modern force that advertised its mission and its robust rules of engagement would have no difficulty in controlling the level of violence. It was only when the extremist perpetrators sensed that the world was not going to address the crisis and that UNAMIR’s contingents were in a self-protection mode that the genocide, in fact, began in earnest.

Some specialists also stressed the value of introducing the intervening force and simultaneously seizing critical physical and functional assets (terrain, communications sites, hostile radio stations, politically significant buildings and people), using overwhelming force to ‘shock’ the participants and seize the initiative. In the author’s judgement, there would be an inverse relationship between the timing and capability of this force and the numbers required. Indeed, fewer numbers would be required if deployed early under such a concept.

**Identifying the Military Force Requirements**

In this chapter, I will essentially analyse the military force requirements from the outset. The planning assumptions that I wish to make are that the intervening force would most likely meet blocking operations conducted by factions of the fighting groups, and its units would
have to conduct large-scale operations initially, followed by small-scale patrol and security operations.\textsuperscript{313}

The most critical aspect of such an intervention force would be the state of its training.\textsuperscript{314} Upon deployment, the force would have to be capable of employing sophisticated tactics and modern equipment to overcome a dangerous yet ambiguous and unpredictable threat. In more conventional operations, the threat is more easily identified, and an assessment of the adversaries’ plans, tactics and goals form an important part of the military planning process that makes military operations more understandable. Units manoeuvre, engage, assess and modify their actions based on outcomes related to their adversaries. In the Rwandan situation, that might have been the case only at the beginning of operations or in one geographic area. However, the Rwandan conventional conflict was intertwined with more complex and low-level actions requiring protection of the populace from either or both belligerent groups. Such situations call for a clear understanding of the overall situation, the ability to discern subtle changes in behaviour to foretell the outbreak of violence, and a disciplined, confident approval that can impose order on chaos. The training required for these situations is more challenging because lower-ranking military personnel are asked to make judgements and take actions that may have consequences far beyond the average soldier’s normal day-to-day responsibilities. Soldiers need knowledge of the situation and the ability to shift mental gears between full-scale, large-unit military operations and small-unit, even individual, monitoring, intervention and assistance roles-knowledge and ability that is not incorporated into training in many military organisations. Only in the last five years has Australia, for instance, begun to incorporate this type of training into standard unit schedules. It is both labour- and resource-intensive to set up such scenarios and requires the diversion of resources from the traditional training that many military leaders consider more critical and more relevant to the military role.


Equally important, properly trained troops must be supported by a staff that can integrate military functions with the directives of the political authorities and the interested countries supporting the peace agreements (in this case, the UN and the Arusha Peace Accords). Planning for such an operation and commanding and controlling the disparate and complex functions occurring simultaneously pose unique complexities not found in the traditional large-scale conventional military operations. Staffs must have an appreciation not only of the elements that normally go into military planning but also of the significant differences to be found in the criteria for success, the number and goals of the parties, the peculiar methods being used to further their goals, and different concepts of strengths and weaknesses. Most important, the planning for such an operation must take into account the increased importance and effect of day-to-day political direction.

Policymakers will never turn operations of the kind described here over to the military with the admonition to ‘win it and we’ll sort it out later.’ The decentralised actions of small units and individual soldiers may have consequences seemingly out of proportion to their immediate and narrowly defined military effects. As a result, the force must expect additional oversight, scrutiny and visibility.

Planning also must include the multinational nature of peacekeeping or peace enforcement missions. Rarely will such operations be conducted by a nation acting alone or without international support, and will almost certainly include the participation or supervision of an international organisation. Therefore, planning not only must incorporate the diverse interests of policymakers who have a hand in determining the mission and resources, but also must address the diversity in the forces that may be provided.

Suitable communications capabilities, civil-military operations personnel, psychological operations staff, interpreters and an augmented intelligence capacity are vital elements of an effective staff for intervention operations. Communication, in particular, becomes a critical element in the success of such a complex operation: all members of the mission and those observing it must be clear about the goals, means and methods to be used and the linkages
among them.\textsuperscript{315}

The communications capabilities also must include secure, compatible systems that allow the commanders and their staffs to talk to UN headquarters in New York. UNAMIR, for instance, depended on contract and civilian staff for much of its communications. When all but four of those civilians departed, the force was left only with a few radios of limited range and just one unreliable secure communications system with which to contact UN headquarters.

Fire support operations would include normal co-ordination of close air support, attack helicopters, artillery and mortars. In Rwanda, clearance of all fires would be especially difficult and all important terrain management would require additional manpower and communications. Units would deploy with organic mortars; the use of any indirect fire weapons in such a densely populated country would be an extremely sensitive issue.

Suppression of the opposition's air defence capability would be essential to retain force mobility and to secure the air bridge to Kigali. Limited air defence assets might be required if belligerents possess combat aircraft or helicopters.

Mobility of the tactical forces and preservation of any existing infrastructure would be essential to ensuring that the population remained stable and close to its sources of food and security. Military engineers would focus on these missions with a combat engineer unit working in each battalion sector. This tactical capability would be complemented by a construction unit at force headquarters able to undertake the critical projects necessary to legitimise the presence of the force and the re-establishment of the peace process. Explosive ordnance disposal and demining surveys would have to commence immediately.

Reconnaissance and surveillance capabilities would also be essential for forces engaged in mobile operations as well as for the security of the fixed-support sites. If the force were successful in restraining population movement, then the extremist perpetrators, to find their targets, would have to move through the countryside and villages. Dismounted observation, coupled with patrolling and operations to maintain a visible presence, would play a large part

\textsuperscript{315} Schroeder, "Operation Support Hope, 1994", especially Chap. 6.
in identifying and influencing patterns of movement. Because this activity is akin to police work, a substantial link between civilian agencies and the military would be crucial. Aviation also would play a significant role. Reconnaissance, command and liaison, transport and attack helicopters would be particularly useful for gathering information, providing responsive and precise fire support, and enabling the force to achieve a significant advantage in mobility over belligerents.

The units of the intervening force would be self-contained logistically, providing their own food, fuel, ammunition, communication, maintenance, medical support and movement control support. Initially, the force would be supported by air from Entebbe, Uganda or other nearby sites. Then, as the situation developed, overland transport could be used. For movement control and medical support, the need to provide both force sustainment and refugee/humanitarian support functions would require a large commitment and a division of labour for specific units.

All personnel should be capable of chemical and biological defence and decontamination. The use of non-lethal chemicals for crowd control or to subdue isolated small opposition elements might also be feasible, however this is problematic. Not only is the use of non-lethal chemicals and biological weapons a murky area morally and legally given the status of current treaty negotiations, it also poses operational problems. For example, the use of non-lethal chemicals such as tear gas may generate rumours and resentment and certainly would cause counterproductive feelings and misunderstandings among the population.

The capabilities outlined above can be found in a modern reinforced infantry brigade. While a typical brigade would require additional infantry to achieve the five-battalion strength as well as significant aviation, staff and logistics reinforcement to meet the unique requirements of the situation, such a reinforced infantry brigade with its normal complement of combat and service support would provide a foundation for an effective intervention force.
For example, the Division Ready Brigade of the American 101st Airborne Division\textsuperscript{316} is a capable, potent, mobile combat force that is accustomed to conducting and linking small-unit operations over a large area. It possesses the firepower, staff capability, combat support and logistics functions required by the operational concept outlined by General Dallaire. Additional infantry battalions could be added to the force in place of its organic 105 millimetre artillery and air defence units. Depending on the threat assessment by the operational commander, the number of antitank missile weapons and crew also could be reduced. These modifications would provide space in a 5,000-troop force for the additional intelligence assets, special operations forces and civil-military operations centre staff required.

\textit{Generating an Intervention Force}

\textit{The window of opportunity offering the best chance for success in Rwanda in 1994 was a small one regardless of the employment concept.} Some specialists, including the author, generally agreed that any action after the last week in April 1994 would have required massive amounts of force because the situation had expanded to the countryside. \textit{Yet this fleeting opportunity was not seized.} Throughout the spring and summer of 1994, there was a notable lack of consensus on just what had to be done in Rwanda and how best to go about it. The rapid introduction of force pre-supposes some definable end to be achieved and the will to achieve that end in a reasonable amount of time. Specialists, including the author, thought that mandates, without a commitment of resources, were more expressions of moral outrage than political will. \textit{In the spring of 1994 several considerations combined to prevent the generation of either individual or collective political will.}

\textit{First}, any peacekeeping force would have to depend on sophisticated transport and logistics capabilities, which are maintained by only a few nations in the world. For this operation, it

\textsuperscript{316} Provided by an operations officer of the 101\textsuperscript{st} Airborne Division, Fort Campbell, Ky., April 10, 1997. This is intended as a generic example to demonstrate only the capabilities that can be incorporated into a force of 5,000 troops.
was observed that the participation of the United States would be crucial. But the United States and other members of the UN Security Council were hesitant to become engaged again in Africa as they were still trying to absorb the lessons of the recent UN debacle in Somalia. There, casualties, a change in operations and political pressure prompted premature US withdrawal. Second, in 1993 and 1994 the UN and the major powers were trying to devise a solution to the ongoing violence in the former Yugoslavia. The strategic situation, some called it fatigue or fear of ‘stretch’, militated against the formation of political will to do anything in Rwanda in the spring of 1994.

Some specialists lamented the role of the UN in this case in particular and in peacekeeping and peacemaking in general. Formed at the end of World War II, the United Nations developed two major aims: to end colonialism and to prevent direct confrontation between the super-powers, the United States and the Soviet Union. In carrying out these two aims, the UN was markedly successful. Sovereignty was a key, inviolable concept at the UN, and deliberation became its institutional hallmark. The UN acted most effectively in slowing the actions of member States (especially those with the most capability), forestalling a precipitous deterioration in a crisis. Today, however, even in the eyes of UN officials, territorial and political integrity are not the impediment to action that they once were. Indeed, the UN finds

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317 According to Frank Wisner, Undersecretary for Policy, US Department of Defence, “We are, to all serious peacekeeping undertakings in this world, the central element. This is not getting away from that”. Quoted in International Peacekeeping and Peace Enforcement, p. 13.

318 Senator Russell D. Feingold has noted, “One of the reasons that we did not act quickly in Rwanda is because of what happened in Somalia, that the people of this country feel that somehow they were burned by showing compassion”. Quoted in Crisis in Central Africa, p. 39.

319 In 1992 Patrick Glyn, a witness called by the committee, testified, “The Defence Department has two nightmares - one is called Vietnam and the other is called Lebanon, and to the Defence Department Yugoslavia looks like Lebanon”. Quoted in U. S. Senate Committee on Foreign Relations, Subcommittee on Foreign Affairs, Hearing before the Subcommittee on European Affairs, Committee on Foreign Relations, 102d Cong., 2nd sess., June 11, 1992, p. 35. Undersecretary Wisner testified in 1993, “In Haiti... we have compelling interests that could lead us into a peacekeeping mission. Probably, in Rwanda, they are not as pressing and we will not.” Quoted in International Peacekeeping and Peace Enforcement, p. 12. From Andrew Kohut and Robert C. Toth, “Arms and the People”, Foreign Affairs 73, no. 6. (November/December 1994): “Americans are more willing to use force to stop drugs than to stop genocide” (p. 57): “Somalia underscored the American aversion to the use of force for peace-making” (p. 52); and “American attitudes... suggest that the public will be clearly disposed to act militarily in two situations: if it feels America’s vital interests are at stake, and if American military force can provide humanitarian assistance without becoming engaged in a protracted conflict. The peacekeeper role evokes an ambiguous response, but the public strongly rejects the peacemaker role” (p. 47). Also see John R. Oneal, Brad Lion, and James H. Joyner Jr., “Are the American People ’Pretty Prudent’? Public Responses to US Uses of Force, 1950-1988”, International Studies Quarterly 40, no. 2 (June 1996), pp. 261-280. For an explanation of U. S. policy, see US Department of State, Bureau of International Organisational Affairs, “Clinton Administration
itself primarily engaged in disputes within States, not between States. This shift in conceptual framework reflects new demands on the institution and requires some adjustments because the UN, in the post-Cold War world, is not equipped to make or implement rapid decisions that require establishing a physical presence on the ground in a crisis. The political machinery and the logistical and financial structure do not yet exist to make things happen quickly. Indeed, the Department of Peacekeeping Operations may not even begin contingency planning for a deteriorating situation without Security Council approval. On a more practical level, the UN contracts for transport, communications, sustainment and integration functions through a laborious and time consuming competitive system. As one source further described the situation, crisis staffing is ad hoc and draws from standing organisations, operating on a volunteer or differentially compensated basis.\textsuperscript{320}

\textit{United Nations or Regional Forces?}

More central than these operational difficulties is the conceptual problem faced by current UN policymakers: How to bridge the gap between Chapter VI missions (classical peacekeeping within an agreed-upon framework) and Chapter VII missions (peacemaking or enforcement). The UN currently lacks the capability to respond rapidly in concrete ways when Chapter VI missions deteriorate into situations requiring Chapter VII actions and forces. The best solution may be a ‘force-in-being’, ready to act at the direction of political authorities. Putting such a capacity at the disposal of political authorities would remove a constraint on their ability to anticipate a crisis and direct a meaningful response with the flexibility required in a dynamic situation. Such a solution, however, may not be achievable in the short term. Developing the right forces for peacemaking is an exercise in determining the possible, which in the post-Cold War world demands consideration of a wide range of options.

\textsuperscript{320} For the argument that intervention works and that a unitary oversight body operating under a coherent framework is essential, see Chester A. Crocker and Fen Osler Hampson, “Making Peace Settlements Work”, \textit{Foreign Policy} 104 (Fall 1996), pp. 54-71; and Goodpaster, \textit{When Diplomacy Is Not Enough}. 359
One innovative suggestion that the author would like to offer in this thesis is that the United Nations establish a standing force for peace operations. Generating a force-in-being traditionally has been the province of sovereign States and is not an activity that countries view as an ad hoc exercise. They devote considerable intellectual and physical resources to the creation and controlled use of military forces. I doubt, however, that in the current strategic setting the UN can achieve the command over the resources necessary to establish a standing military force. The sovereign concerns of member States and the current structural capabilities of the UN preclude such innovation.  

There may, however, be opportunities to link the UN staff with standing forces provided either by regional organisations or by individual countries. This arrangement has two advantages. First, support may be more forthcoming if the mission is performed under UN auspices and with UN direction. Second, operations directed by UN staff provide some political cover for the major force provider, especially if troops are sent to a sensitive area. Such an arrangement is a plausible compromise that builds on an existing structure and contains sufficient safeguards, rooted in sovereignty, for the forces of the contributing organisation or State.

But critics might argue that the very safeguards of sovereignty are themselves the main impediments to effective use of international force. Contributor States or organisations, having developed and fielded forces to accommodate national defence requirements, are

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321 Ingvar Carlsson, “The U.N. at 50: A Time for Reform,” and Ruben P. Mendez, “Paying for Peace and Development”, Foreign Policy 100 (Fall 1995), pp. 3-18 and 19-32, respectively. For the debate on competing interests, values, and the sovereign versus supranational issues, see Richard K. Betts, “The Delusion of Impartial Intervention”, and Tony Smith, “In Defence of Intervention”, Foreign Affairs 73, no. 6 (November/December 1994), pp. 20-33 and 34-46, respectively. In an exchange of letters between Senator Carl Levin and Principal Undersecretary of Defence for Policy Walter Slocumbe addressing the UN capability to approve NATO air strikes in Bosnia, Slocumbe (July 14, 1993) described the request procedures through the various military headquarters and then stated, “We have no way of knowing, of course, how long the Secretary General might deliberate before rendering his decision. The UNSYG’s decision-making process not NATO/UNPROFOR
reluctant to *a priori* designation or dedication of forces to a supranational body without adequate guarantees about their use. These guarantees often focus on estimates of national interest and finances. Although some countries may be accused of possessing military capability in excess of national requirements, few if any are willing to use the forces created to defend national interests for the pursuit of a more diffuse, ambiguous supranational agenda. It is reasonable to assume, then, that countries providing dedicated or earmarked forces for the UN, NATO or other organisations would expect compensation. Compensation and 'burden sharing' return the question to one of interest and the ability to mobilise support within a global organisation for intervention in local crises whose importance for the organisation's members is ill-defined.

Use of forces from regional organisations could provide a solution when used in their own region. Such forces have a closer relationship with the parties most likely to have a stake in successful peacekeeping or peacemaking; the interests are better defined for all parties; justification for the creation and use of such forces is more obvious; and the parties have less incentive to build excess or inapplicable capabilities. Regional forces may be more familiar with the local problems and languages, have fewer problems adjusting to the climate and culture, and be able to exploit the synergy that comes from working with allies who share cultural traditions and economic interests. Secondary benefits include training, interoperability and confidence building measures that may exist among the participants in the force.

There are significant obstacles, however, to the use of regional forces. First, the very stake in the outcome that regional participants have in a conflict may lead to misuse of the force for other agendas or introduce obstacles to its effectiveness.\textsuperscript{322} Disinterested parties from distant countries are sometimes perceived by belligerents as being more important. Second, building and training such a force is costly, and confidence building and interoperability are not achieved easily. NATO is a 50 year work in progress that requires constant maintenance and remains – Iraq provides but one example - subject to significant internal strains. Third, few regions have the military capability to deploy or sustain such a peacekeeping or peacemaking

\textsuperscript{322}command and control procedures, are the ‘long pole in the tent’”. Quoted in *International Peacekeeping and Peace Enforcement*, pp. 32-33.
force for the significant period of time it takes to achieve indigenous momentum toward stability. Finally, such regional efforts may be viewed by some countries as an excuse by the developed world to wash its hands of problems in the developing regions. The final paradox is that the countries in the very regions in which a force may be required are themselves in dire financial, social and political straits. They would be hard-pressed to participate in intervention operations without assistance.323

One solution to the problems facing regional peacekeeping forces is the creation of a ‘regional plus’ force, such as the African Crisis Response Force, which is currently being developed.324 Indigenous regional forces can be trained in peacekeeping and combat skills. The capabilities they lack are command and control, transport, intelligence, logistics and communications, which could be furnished by another nation. Thus, the ‘on-the-ground’ resources would be provided by those who stand to gain the most from regional stability, and technical support would be furnished by other countries (even former colonial powers), which then could maintain a discreet distance from any hostilities.

Yet the ‘regional plus’ option has its own set of difficulties. Countries in Latin America, Africa and South East Asia, where such forces are proposed, may perceive ‘regional plus’ as a way for the developed world to shift the risk of casualties to poor countries or to maintain a de facto veto over the use of regional force by retaining certain key capabilities. Evidence of an analogous perception is growing at the UN, where, for lack of resources, developing countries cannot maintain personnel in New York to work on the UN military staff. Indeed, many members of the staff are officers from the West and North and may lack the perspective of the regions where they are most likely to implement their plans. Clearly, resistance to intervention is more likely if there is a perception that an operation is designed and run by a staff that has few regional representatives.

324 In July and August 1998, US Special Operations forces began missions to train contingents from several African countries in preparation for their participation in the force.
Sometimes a single nation with credibility can be as effective as, or more effective than, an international organisation. Much depends on the situation and the history of the conflict. Ultimately, a force such as the one proposed for Rwanda may be in the purview of a ‘lead country’. If questions of operational goals, force generation, deployment, employment and engagement require a timely response by one actor, then the United States, France and Britain, among others, must recognise that their services will be in demand. This is not to say that only Western democracies can, should, or will perform the bulk of preventative operations, but their capabilities often will be indispensable. To be sure, intervention forces that incorporate wide participation send a strong message to their intended audience that the international community has a stake in successful outcomes. But incorporation of wider diversity in the intervening force as a criterion carries a set of disadvantages, as noted, which must be weighed against the advantages. In the final analysis, a force is effective only if someone is firmly in charge, and those in charge generally have to put up a large percentage of the resources. As a result, the ‘sanctioning’, ‘licensing’ or underwriting of a major power to carry out UN or NATO missions has been done on a number of occasions and offers good chances for success.\textsuperscript{325} The difficulty is that this system does not move the conceptual framework for peace operations very far forward and leaves cases like Rwanda in an orphaned status unless and until the UN or other parties such as the US and China can persuade potential ‘lead’ countries to get involved.

\textsuperscript{325} The author has noted that intervention on a global scale requires a type of military culture that few countries have cultivated. Most of the world’s militaries have been constituted with a priority on territorial defence and political integrity (with the latter perhaps getting too much attention in certain quarters). Few countries teach their soldiers the broad concepts of law, ethics and society that provide the basis for disciplined action in far-off, unfamiliar, ambiguous and dangerous situations like the ones in Rwanda, Bosnia and Kosovo.
Conclusion

The following, then, are the author’s findings:

- The hypothetical force described by the Canadian General Dallaire, a force of just 5,000 UN peace keepers, could have made a vital difference in Rwanda in 1994.

- In Rwanda, a window of opportunity for the deployment of such a force extended roughly from about 7-21 April 1994, when the political leaders of the violence were still susceptible to international influence. The rapid introduction of suitable combat forces, authorised to seize at one time critical points throughout the country, would have changed the political calculations of the participants. The opportunity existed to prevent this war.
Chapter 11 – Toward a Culture of Prevention

Introduction

In the second part of this thesis, I have suggested that any successful regime for the prevention of war must be multifaceted and indeed designed for the long term. To deal with imminent war, we need better warning and more ways of responding with preventative diplomacy, sanctions, inducements and the use of force. To deal with the root causes of war, we need structural approaches that ensure security, well-being and justice for the almost six billion people on the planet. Society in its broadest sense, including non-government organisations, religious leaders and institutions, the educational and scientific communities, the media and the business community, must play an important role in any such regime. The United Nations, NATO and regional organisations are also essential for marshalling the resources of the international community in the prevention of war.

I have argued that the urgency of this task is clear. I have also described the many forces that are pushing groups into war: the irresponsible leaders, the historic ethnic and religious tensions, population growth, increasing crowding in cities, economic deterioration, environmental degradation, repressive and discriminating ethnic policies, corrupt and incompetent governance, and technological development that increases the gap between rich and poor. In the vast majority of cases, however, these forces need not lead inevitably to war.

The inescapable fact is that the decision to go to war is made by leaders to incite susceptible groups. The author believes that leaders and groups can be influenced to avoid war. Indeed, leaders can be persuaded or coerced to use peaceful measures of conflict resolution, and structural approaches can reduce the susceptibility of groups to arguments for war.
Beyond persuasion and coercion, however, we must begin to create a culture of prevention. Taught in secular and religious schools, emphasised by the media, pursued vigorously by the UN and other international organisations, the prevention of war must become a commonplace of daily life and part of a global cultural heritage passed down from generation to generation. Leaders must exemplify the culture of prevention. The vision, courage and skills to prevent war, and the ability to communicate the need for prevention, must be required qualifications for leaders in the twenty-first century.

In our world of unprecedented levels of destructive weaponry and increased geographic and social proximity, competition between groups has become extremely dangerous. In the century to come, human survival may well depend on our ability to learn a new form of adaptation, one in which intergroup competition is largely replaced by mutual understanding and human co-operation. *Curiously, a vital part of human experience - learning to live together – has been badly neglected in our universities and elsewhere within society.*

It is not too late, however, for us to develop a radically new outlook on human relations. Perhaps it is something akin to learning that the Earth is not flat. Through concerted educational efforts, such as a shift in perspective throughout the world might at long last make it possible for human groups to learn to live together in peace and mutual benefit.
The Challenge to Educate

There is a very long evolutionary connection between human groups and their survival. This basic fact has implications for conflict resolution, the prevention of war and intergroup co-operation. During the past few decades, valuable insights have emerged from both field studies and experimental research on intergroup behaviour. Among the most striking is the finding that the propensity to distinguish between in-groups and out-groups and to make harsh, invidious distinctions between “us” and “them” is a pervasive human attribute. Although these easily learned responses may have had adaptive functions beneficial to human survival, they have also been a major source of war, ethnic cleansing and human suffering.

Is it possible for groups to achieve internal cohesion and self-respect and sustain legitimate and effective political communities without promoting hatred and violence in the process? The immense human capacity for adaptation should make it possible for is to learn to minimise harsh and hateful distinctions. A great deal of laboratory and field research tells us that we can indeed learn new habits of mind, in spite of our evolutionary legacy.

There are countless examples of human tolerance and co-operation. What are the conditions under which group relations can go one way or another? If we could answer such questions better, perhaps we could learn to tilt the balance toward cultures of peace.

We might begin by strengthening research on child development, to better understand the causes of prejudice and the dynamics of intergroup relations. This sort of inquiry can help

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achieve a deeper understanding of human behaviour that bears upon the ultimate problems of war and peace.

Current research is exploring practices within schools and universities that can create a positive atmosphere of mutual respect and co-operative interactions among peers, as well as between students and teachers. Indeed, the valuable potential of educational institutions for preventing war is emphasised. Teaching children the values of co-operation and toleration of cultural differences helps to overcome prejudicial stereotypes that opportunistic leaders routinely use for their own destructive ends. Tapping education's potential for toleration is an important and long-term task. It is necessary not only to strengthen the relevant curricula in schools and universities, but also to use the educational potential of popular media.

**The Mass Media**

A strong emphasis must be placed on freedom of the press – or the media in the broadest sense – with fair access for all parties, particularly for minority groups, and full freedom of political, religious and cultural expression. This freedom also includes the opportunity to investigate government activities and to criticise all parties, even though the harshness of such criticism is often unpleasant and sometimes quite unfair.

How can the international community foster a mass media that is devoted to combating intergroup prejudice and ethnocentrism, as well as communicating the values and skills of conflict resolution? We are by now all too familiar with political entrepreneurs who use the media to exploit ethnic tensions – actions which often make their own constituencies as vulnerable as the groups that they target. Can these people be reached by independent media? Radio is, of course, a relatively low-cost and widely accessible medium. The international community should support radio and other independent media that combat divisive mythmaking by providing accurate information about current events, ethnic relations and actual instances of conflict prevention.

Religious Institutions

Despite the fact that a belief in peace is professed by a wide variety of faiths, religious leaders frequently support and even incite racial violence. Today, we note with deep concern a growing fringe in many religions that is characterised by self-glorification on the one hand, and a bigoted, often fanatical, deprecation of “outsider” groups on the other. While clearly dangerous, such extremist orientations are seldom dominant. Indeed, both historically and today, the core creed of most religions tends to support social and ethnic tolerance, respect for others, concern for the vulnerable, and the peaceful resolution of disputes. Moreover, as noted earlier, religious leaders throughout the world enjoy extensive popular confidence and influence in universities and educational institutions.

To date, religious education has tended to focus narrowly on indoctrination in the history and theology of the faith. Typically, however, there also has been an ethical content that could serve as the basis for expanded efforts to address the moral and practical necessity for groups to learn to live together co-operatively. The international community should challenge religious leaders and institutions to examine these issues in their own way – in their universities and schools, from their pulpits and in their organisations.

The United Nations

Education for the peaceful management of conflict must not be confined by national boundaries. Here, the international community can play a decisive role in broadening public education on a whole range of social and moral problems associated with intergroup violence.

The UN is already the world’s premiere institution for conflict resolution and is likely to become even more active in the decades ahead. Various UN organisations can provide


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invaluable leadership in educating policymakers and the general public about resolving conflicts without violence. It would be ambitious and unprecedented, but not entirely fanciful, for the UN to sponsor, for example, leadership seminars in co-operation with major universities or research institutions to which would be invited new heads of State, new foreign ministers, new defence ministers and parliamentarians of varying groups and parties. On an on-going basis, such seminars could educate leaders about how the UN, NATO and other international organisations can help them establish more effective and inclusive institutions for addressing disputes. Given the contemporary climate, it is singularly important that such seminars deal with the problems of nationalism, ethnocentrism and violence, and that they do so in a way that takes account of all available knowledge about the prevention of war.

Through these seminars, as well as through its publications program and the wider media, the UN can make more accessible the world’s accumulated experience with conflict and conflict prevention. In particular, the UN could serve as a storehouse of information about specific conflicts; the responsible handling of weapons of mass destruction; the likely consequences of unregulated weapons buildups; the skills, knowledge base and prestige properly associated with successful conflict resolution; effective strategies for economic development, including innovative uses of science and technology for development; and lessons from co-operative behaviour in the world community, including the peaceful management of disputes at the international level.

The UN system can make these resources and skills accessible to the world by creating a comprehensive information program in which important knowledge is provided to key policymakers on a regular basis. In the same vein, the UN can build an information network among community groups, non-government organisations, academic institutions and the corporate sector. In this way, accurate and credible information can be provided on both intergroup and interstate conflicts as well as on ways of managing them constructively.

One illustration of the potential for educational innovation is an initiative launched by UNESCO in May 1996 to promote tolerance, co-operation and conflict prevention and
resolution in schools and universities.\(^{327}\) The "Culture of Peace" has developed a conceptual framework that participating educational institutions in countries around the world will use to design their own education strategies. In addition to educational materials, curricula guides and teacher training, the project emphasises the importance of the values, morals, attitudes and behaviours of a culture of peace by ensuring that they are built into the social relations of the learning process itself. Pilot activities are focused on peaceful conflict resolution in schools and universities serving communities where children live in violence-prone conditions. This effort could serve as a model for more widespread international initiatives. *There is an urgent need for local, national and international ingenuity in this field.*

The international community can expand the range of favourable contacts between people of different groups and countries. A greater comprehension of other, often unfamiliar, cultures is essential to the reduction of negative preconceptions. To this end, educational, cultural and scientific exchanges can have lasting value and should be encouraged. Likewise, the international community should seek to develop joint projects that allow more sustained co-operation across political, religious and cultural borders. If only on a small scale, such endeavours offer the practical experience of working together in the pursuit of a superordinate, commonly beneficial goal. There are a number of ways to overcome antagonistic attitudes between groups and, preferably, to prevent them from arising in the first place. *Thus far, however, societies have been remarkably inattentive to these possibilities.*

Those who have a deep sense of belonging to groups that cut across ethnic, national or sectarian lines may serve as bridges between different groups and help to move them toward a wider, more inclusive social and moral identity. Building such bridges will require many people interacting across traditional barriers on a basis of mutual respect. Developing a personal identification with people beyond one's primary group has never been easy. *Yet, broader identities are possible, and in the next century it will be necessary to encourage them on a larger scale than ever before.*

\(^{327}\) United Nations Educational, Scientific and Cultural Organisation, "A Culture of Peace and Nonviolence within Educational Institutions: Elements for the Launching of an Inter-Regional Project," draft paper prepared
The Challenge to Lead

I now want to return to the indispensability of leadership. Without effective and morally responsible leadership, it will not be possible to implement the strategies and use the practical tools needed for the prevention of war.

Mikhail Gorbachev, former President of the Soviet Union, reflected on his years of intense interaction with political leaders all over the world. One of his more noteworthy observations was the pervasive tendency among leaders to view “brute force” as their ultimate source of validation. Gorbachev highlights the continuation of a long-standing, and historically deadly, inclination of leaders to reduce the art of leadership to being tough, aggressive and even violent. Indeed, for all too many leaders, projecting an image of physical strength is still the essence of leadership. Although Gorbachev controlled a vast nuclear arsenal, as well as immense power in conventional, chemical and biological weapons, he was wise enough not to interpret his own authority in terms of “brute force.” Gradually, Gorbachev, as had then- U.S. President Ronald Reagan, took a great step forward by replacing the old security concept of nuclear superiority with an explicit endorsement of the principle that nuclear war can never be won and must never be fought.

It will take unprecedented leadership skills to move the world toward the elimination of nuclear weapons. We still must confront the fact that a misjudgment or miscalculation brought about by the interplay of human foibles could lead to a nuclear disaster. As long as these weapons exist, so does this threat.

Although the prevention of war requires many tools and strategies, bold leadership and an active constituency for prevention are essential for these tools and strategies to be effective.

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The author believes that lessons learned in other contexts can also be usefully applied to the prevention of war. In the sphere of public health, the application of the concept of prevention is now familiar. Indeed, this view of the prevention process offers a useful practical analogy. In much the same way that sustained medical research and conscientious public health practices have eliminated many deadly epidemics, the security and well-being of millions of people could be improved where knowledge, skill and dedication are placed in the service of preventing war.

*The author would urge leaders to develop an explicit focus in prevention,* not only elected officials, but also leaders in business, media, religion, academia and other influential communities. By virtue of both their power and public prominence, these leaders bear a serious responsibility for utilising their public influence for constructive purposes. In both word and deed, they can shape an agenda for co-operation, caring and decent human relations.

What kind of leadership then are we discussing? While leadership for preventing war has been a specific focus of this thesis, the author also has in mind a broader notion of leadership that encompasses not only effective, democratic governance but also humanitarian values, moral values and social justice.

**Lessons of World War II**

In this century, we have witnessed abundant examples of leadership that was brutal and effective, as well as leadership that was decent but ineffective. The events leading to the carnage of World War II serve well to illustrate both of these variants of maladaptive leadership.

In the early 1930s, there were unmistakable signs that there would be a reign of terror if the National Socialists came to power in Germany. Adolf Hitler did not hide his brutality. He
elaborated his foreign policy views in speeches and made his view on war especially clear in *Mein Kampf* in 1924. There were moments during Hitler’s rise to power and in the years following when the international community could have taken preventative action. The atrocities of Hitler’s storm troopers in his first months in office should have been a powerful warning: a regime that massively violates domestic law and egregiously violates human rights will create a similarly lawless foreign policy.

Why, then, in the light of these warnings, did leaders around the world miscalculate, tolerate and fatally fail to react to the danger posed by Hitler’s rise to power in 1933? Why did the representatives of the leading democracies not make the connection between Hitler’s brutal domestic and foreign policies? Why were they unwilling to confront the formidable danger posed by Hitler, despite his explicit threats and overt actions?

In part, the democracies did not react quickly to the early aggressive acts of totalitarian States because of their preoccupation with the Depression and the severe domestic hardships it created. The massive loss of life in World War I made leaders, especially of the established democracies, particularly anxious to avoid another war at almost any cost. Leaders readily invented excuses for acts of international lawlessness as well as for their own aversion to taking action to stop them. They deluded themselves with the idea that Hitler simply desired a revision of the Versailles Treaty and the restoration of Germany’s 1914 boundaries. Once these terms were met, they hoped that Hitler would become a law-abiding citizen or that he would be a short-lived political phenomenon. Some thought he was capable of fomenting ill-will but not of ruling and that he would be replaced by more moderate power groups once the economic and political crisis in Germany was overcome. People in democracies did not want to be burdened with additional problems, and they largely supported their leaders’ passivity and appeasement.

Overall, world leaders blinded themselves to the acts of aggression, thereby actually enhancing the probability of another world war. There is a powerful lesson in the ubiquitous human capacity for wishful thinking in the face of danger. Tragically, such thinking led the
world to neglect numerous opportunities to prevent the horrific catastrophes of genocide and war that followed.

The grim lessons of prewar diplomacy alert us to the profoundly important and sometimes negative role played by the responses of leaders to early warning. Fanatical, ruthless and otherwise highly dangerous leaders must be checked before they become so powerful that stopping them requires massive armed intervention. With strong responses to Hitler’s aggression, World War II and the Holocaust could have been prevented. Similarly, the current tragedies in Kosovo and East Timor could also have been prevented.

Following the atrocities in Croatia and Bosnia-Herzegovina, it has been predicted that Kosovo would be Serbia’s next target (Biberaj, 1993; Heraclides, 1998; Veremis & Kofos, 1998). Looking at the “easily inflammable situation” (Biberaj, 1993, p.2), there are many steps the international community can take to prevent another Balkan war besides warning Serbia against ethnic cleansing, since Milosevic has been well known for making “tactical compromises” only to come back and seize the “first opportunity to push ahead with his objectives” (Biberaj, p.22). International peacekeeping forces could be deployed in Kosovo as well as to Albania and Macedonia while helping both Albania and Macedonia modernise their armed forces. Serbia’s heavy armament could either be withdrawn or placed under international control. The international community could also move beyond protesting at Serbia’s violation of human rights and support Kosovo’s separation from Serbia. There is also a temporary solution which is to place Kosovo as a protectorate of the United Nations for a period of time should Milosevic continue to resist open negotiations with ethnic Albanian leaders (Biberaj, 1993).

*The Vision of Nelson Mandela*

Yet there are many leaders who are capable of learning, of acting creatively and effectively in the face of new dangers and new opportunities, and of accommodating the legitimate concerns
of rival ethnic groups. There is perhaps no better example of this kind of leader than Nelson Mandela.

During his many years as a political prisoner, Mandela experienced firsthand what it meant to have legitimate aspirations constantly frustrated by arbitrary power. He had ample reason for anger and a tempting motive for retaliation. Indeed, he could have pursued his political aims through war. Instead, reflection led him to a different conclusion: while war might indeed destroy his adversaries, in the process it might also destroy his own people, physically as well as morally. Mandela thus came to embrace reconciliation, negotiated solutions to political differences, and the joint creation of mutually beneficial arrangements. From a different starting point, F.W. de Klerk underwent a transformation of his own. Together, the two men were able to generate a process of peaceful change in South Africa that avoided war, despite the social, economic and political tensions that apartheid had created.

The same kind of leadership was responsible for the peaceful conclusion of the Cold War. The evolution of relations between Reagan and Gorbachev was similar to that of Mandela and de Klerk. During the course of their complicated and often uneasy negotiations, they too moved to embrace mutually supportive positions. Both of these examples demonstrate in part the role that bold and enlightened leadership can play in avoiding catastrophe and building better relations, both between and within States. The decision to end the Cold War, however, seems to have been forced upon Reagan and Gorbachev as the arms race caused American budget deficits to dramatically increase (Tobin, 1996). The Soviet Union also found it impossible to rise up to the challenge that the United States had given them in terms of “a technological arms race and a spending race” (Barnet, 1992 p.115) in the face of a disastrous war in Afghanistan and the realization that she would never develop into a “strong economic base as an autarchic economy” (Barnet, 1992, p.116).

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Especially at a time when many countries are struggling with the new and uncertain challenges of democratisation, the international community must champion the norm of responsible moral leadership and support opportunities for leaders to engage in negotiated, equitable solutions to intergroup disputes. Leaders who demonstrate good-will and who engage in these practices should be recognised and ultimately rewarded. By the same token, conditions should be fostered that would allow electorates to hold their leaders accountable when and where they depart from democratic norms of peaceful conflict resolution. The international community must expand efforts to educate people everywhere that preventing war is both necessary and possible. *To miss the opportunity for such preventative action is a failure of leadership.*

Both the complexity and risk of taking action in many dangerous situations today highlight the need to *share burdens* and *pool strengths*. The task can be made more feasible by strengthening institutional arrangements to improve decision-making processes.

**Toward Wise Decision Making**

In the search for sound and meaningful policies, certain trade-offs are inevitable. There are two competing constraints, in particular, that impinge on leadership choices and that very often create insoluble policy dilemmas. To be effective, leaders must be sensitive to these constraints and use careful judgment. The first constraint is the need to create and sustain a modicum of policy consensus, both within the various branches of government and among the public at large. A second constraint stems from the finite nature of policymaking resources, both tangible financial and personnel resources and more intangible resources such as time and a clear mandate. The careful, systematic search for a comprehensive policy should not preclude a timely decision; an unduly protracted search could reduce the likelihood of a successful outcome. Likewise, any investment of time and policymaking resources in support of one policy may interfere with the implementation of other, often equally important, measures.
Organisational, procedural and staffing arrangements that support decision making can be institutionalised in ways that foster these problem-solving processes. The many recommendations emerging from studies of effective policymaking apply to efforts to prevent war. These studies suggest there are ways to ensure that leaders receive high-quality information, analysis and advice, and avoid omissions in surveying objectives and alternatives.

There are a number of tasks that must be well executed within a policymaking system if a leader is to receive information, analysis and advice of high quality. These procedures do not guarantee high-quality decisions, but they increase their probability. The first task is to ensure that sufficient information about the current situation is obtained and analysed adequately. Second, the policymaking process must facilitate consideration of all the major values and interests affected by the policy issue at hand. Third, the process should ensure a search for a relatively wide range of options and a reasonably thorough evaluation of the expected consequences of each. Fourth, the policymaking process should carefully consider the problems that might arise in implementing the options under consideration. Finally, the process should remain receptive to indications that current policies are not working: it is important to retain the capacity to learn quickly from experience.

In crisis situations requiring operational prevention, where decisions must be made quickly in response to unanticipated threats, decision-making hazards are often amplified. Crisis decision making normally encounters a variety of additional constraints, including the moral complexity of making life-or-death choices and the psychological stress of working with incomplete information in changing and uncertain conditions, where time and viable options

are scarce. Very often, the gravity of the crisis means that long-term consequences are discounted in favour of short-term objectives.

To overcome these obstacles, leaders should seek to mobilise the best available information by relying on well-informed advisers with different perspectives and encouraging an atmosphere of candid expression. In this way, they can ease the difficulties of differentiating between possible and probable courses of action, of appraising the costs and benefits of alternative policies and of distinguishing relevant from irrelevant information. Thus, decision makers can be better equipped to cope with ambiguity, to refrain from impulsive action and to respond flexibly to new developments.

It is important for leaders to take into account the powerful phenomenon of wishful thinking, in which individuals hear what they want to hear because they deeply wish it were true. Crisis situations are almost always complex, uncertain and ambiguous. This ambiguity can be read in wishfully inaccurate ways and with wildly disappointing results. *The war in Vietnam began with an anticipation on the part of the United States and French forces that there would be quick and glorious victories, but to the Viet Minh/ Viet Cong, they were prepared to fight a long and vast guerilla war*" against the allied forces (Lanning & Cragg, 1992, p.170).

Naturally, in deciding whether and how to participate in preventative efforts, leaders must consider national interests. Traditionally, national interests have been narrowly conceived in terms of vital geopolitical or military advantage and have been invoked to defend against clear and present military or economic threats.

*The author believes that, on the eve of the twenty-first century, there is a need for a broader conception of national interests, one which encompasses both enlightened self-interest and a more realistic appraisal of the contemporary world. When every violent conflict is dismissed as distant and inconsequential, we run the risk of allowing a series of conflict episodes to undermine the vitality of hard-won international norms. In a world of increased economic and political interdependence, in which national well-being increasingly depends on the security*

331 Alexander L. George, *Presidential Decision-Making in Foreign Policy: The Effective Use of Information and*
and prosperity of other States and peoples, indifference of this sort could have corrosive and consequential effects for everyone. Rather than rely on obsolete notions of national interest, leaders must develop formulations that reflect this new reality.

The author has noted earlier the risks of mass violence and ethnic cleansing growing out of degraded political conditions: the fostering of hatred and terrorism, of infectious pandemics, of massive refugee flows and of dangerous environmental effects. All these risks must be taken into account in a world of unprecedented proximity and interdependence. They will have a bearing on realistic appraisals of national interest and the interest of the international community in the next century.

*From this perspective, the author strongly believes that preventing war serves the most vital human interest – that of survival.* Clearly, any efforts to promote the norms of tolerance, mutual assistance, morally responsible leadership and social equity is valuable in its own right. But the prevention of war has a practical as well as a moral value: where peace and co-operation prevail, so do security and prosperity. Witness the steps taken after World War II, which laid the groundwork for today’s successful European Union. Leaders such as Jean Monnet and George Marshall looked beyond both the wartime devastation and the enmities that had caused it, and envisioned a Europe in which regional co-operation would transcend adversarial boundaries and traditional rivalries. Correctly, they foresaw that large-scale economic co-operation would facilitate not only the postwar recovery but also the long-term prosperity which has helped Europe to achieve a degree of peace once thought unattainable. Postwar reconstruction is a powerful example of building structural prevention by creating conditions that favour social and economic development and peaceful interaction. *A long-range vision and a broad view of regional opportunities can indeed be exceedingly constructive.*

Realising this vision, however, was not easy. It required constant and creative efforts to educate the public, mobilise key constituencies and persuade reluctant partners. Moreover, maintaining this support required the prudent use of scarce political, moral and social capital. To take just one example, the Marshall Plan initially enjoyed very little support among the

American public. Had it not been for the determination and skill of President Harry Truman, the program that made the single most important contribution to Europe’s postwar reconstruction and development would probably never have been implemented. The Marshall Plan is a model of what sustained international co-operation can accomplish; no less, it is an extraordinary illustration of the decisive importance of visionary leadership.

**The Challenge to Communicate**

One of the greatest obstacles to the creation of an enduring framework for the prevention of war is the human aversion to risk. Indeed, as with every new policy initiative, the prevention of war involves considerable uncertainty and risk. Even the most well-designed and carefully co-ordinated preventative action can fail to achieve every objective. Very often, the results of prevention may be difficult to measure or may take considerable time to materialise. This means that leaders who bear the risk of undertaking new initiatives may no longer be in power when the time comes to claim the rewards of their success. Especially in pluralistic polities, leaders must in the meantime confront accusations that preventative missions waste resources or place military personnel in conditions of unnecessary risk, while achieving relatively little. *In view of all these hazards, how can leaders summon the determination and maintain the political will to act preventatively?*

One way is for leaders to focus on generating a broad constituency for prevention. With a public that is aware of the value of prevention and informed of the availability of constructive alternatives, the political risks of sustaining preemptive engagement in the world are reduced. In practical terms, an enduring constituency for prevention could be fostered through measures that identify latent popular inclinations toward prevention; reinforce these impulses with substantive explanations of rationales, approaches and successful examples; make the message clearer by developing analogies from familiar contexts such as the home and community; and demonstrate the linkage between preventing war and vital public interests. Such efforts are more likely to succeed if leaders can mobilise the media, the business
community, the religious and other influential groups in society.

Among the general public, there are already a range of dispositions, interests and organisations that can be tapped for support. For example, as mentioned earlier, in a variety of Western countries, a strong constituency for prevention in medicine and public health has emerged over the last several decades. Public awareness campaigns and the provision of information about health risks and preventative behaviour have led to remarkable improvements in public health. Concepts like “an ounce of prevention is worth a pound of cure” have taken hold in the public imagination and are reflected positively in the improved rates of immunisation, better diet and exercise practices and reduced AIDS deaths. In short, sustained public efforts at disease prevention have proven highly effective. This model of dedicated leadership and public education can also be usefully applied to the prevention of war.

**The Promise of Prevention in the Century to Come**

The twentieth century has witnessed some of the bloodiest, most destructive wars in recorded history. As the world approaches the eve of the third millennium, many unresolved intergroup and interstate conflicts continue to fester and to claim a massive toll in human lives and resources. For too long now, we have deluded ourselves with the complacent belief that the events in faraway lands are not our concern, that the problems of other peoples do not have consequences for us all. This short-sighted view has left us ill prepared to deal with conflicts when they occur. It has condemned us to muddle through from crisis to crisis, applying emergency first aid where what is most urgently needed are more fundamental solutions. This thesis, then, has endeavoured to show that we can indeed prevent war – perhaps not easily, perhaps not quickly, but the capacity is within our grasp.

The record of this century also provides a compelling basis for hope. The general decline of
tyranny and the expansion of representative and responsive government, the protection of human rights, and the promotion of social justice and moral and economic well-being – highly imperfect and incomplete though they are – suggest what human ingenuity can accomplish. If we are to lessen the destructiveness of humankind, we must pool our strengths to extend these achievements in the century to come. By placing the promise of prevention squarely at the forefront of the world’s agenda, it is the author’s hope that leaders will now take up the challenges of education, leadership and communication. Perhaps then we can achieve together the peace that has so far eluded us separately.

Conclusion

The nature of war in the century to come could take two possible forms. The first is a brutal and bloody picture, showing continued killings of hundreds of thousands of civilians each year, tens of millions forced to flee their homes, still more facing unnecessary suffering. In this future, there will probably be more and more times when aid agencies refuse to play the ‘fig leaf’ to inaction by the international community (especially its wealthiest members), more times when the tough choice for aid agencies to make is to stay out. War’s terrible images will be seen on television by the rest of the world in its comparative, and perhaps precarious, security. It will not feel like a ‘global village’ but like a world divided.

The other future is not a utopia. It is a dangerous and rapidly changing world, in which many wars still go on, and many combatants choose to kill civilians in them. But there is more determined support for those people in countries trying to escape the vicious cycle of war, fragile ‘peace’, and war again; better targeted international policies to help to reduce the risks of future violence, and a more proactive international effort to protect civilians when wars break out. In parts of the world canvas, the picture is still brutal and bloody. But in other parts, this new approach is succeeding in preventing wars and enabling civilians to live in peace. Over the years, literally millions of people who might have died in armed conflict would survive to contribute to their societies. It is no longer the norm for the Geneva
Conventions and humanitarian law to be flouted with impunity. People gain conviction that something can be done.

If the current trends described in the early chapters of this thesis continue, civil wars in the first years of the twenty-first century will produce even more human suffering, and aid will be still more compromised. The academic Mark Duffield wrote in the 1995 paper, *Symphony of the Damned*, that emergency aid now effectively has the prime purpose, for donor governments if not for generous individuals, of propping up an unjust economic world order. If those governments would challenge that charge as too cynical, they should use their power to make international economic policy directed more towards reducing poverty and less likely to fuel conflict.

It appears that governments do not do so because they do not perceive that they have to pay some of the costs of conflicts. Would rich world finance ministries which determine World Bank and IMF policies agree to stabilisation and adjustment programmes which accentuate poverty and social tension if the same ministries realised that they have to pick up the bill for humanitarian aid, and peace-keeping, when excessively austere programmes helped to push a country over the brink to war? Would they allow their foreign ministries a freer hand to, for example, negotiate at the Security Council for preventive deployments of peace-keepers, if they saw that the cost of peace-keeping might be a fraction of the cost of waiting for catastrophe and then being forced to pay for bigger operations? The UN troops in Macedonia, so far helping to keep the peace, have cost only US$134 million; a good investment when compared to a bill for more than US$8 billion for NATO’s Implementation Force in Bosnia in 1996.

Similarly, would more companies develop codes of conduct to guide their business in vulnerable countries, if they perceived that their customers and shareholders expected them not only to protect the environment, but also to promote human rights and conflict-prevention?
One ground for hope is that there may now be a growing realisation that citizens, governments, and businesses have a long-term self-interest in peace around the world. It rests in part on the fact that, to some extent at least, Western governments cannot avoid picking up the cost of responding to civil wars, or at least those that are seen on TV. Their shocked electorates will not let them. Therefore, they see the sense of investing in whatever makes wars less likely. Prevention is better than cure, though it is not always easy. Though implementation will depend on the particular situation in each country, the principle which must run through all policies, is that every citizen should be encouraged to find a stake in peace. Fundamentally, peace rests on moral and social responsibility. And this rests on people’s belief that their interests are linked to, not opposed to, those of their society. Economic opportunities, the provision of services, and a commitment to justice, equity, and identity must combine to make this a reality.

Over the past few years this has been fundamentally threatened by the view that moral and social cohesion and economic success are alternatives, not complements. This fallacy has lain behind much of the international economic policies which have helped to make many countries less stable.

This mood is now changing. The World Bank is gradually moving to see that economic reform cannot succeed without a concern for human rights. In a number of countries, including Australia, there has been a similar shift in the climate of ideas. As Kim Beazley put it in March 1997:

A new language of public interest, community, stakeholding and security has already succeeded in puncturing the airy certainties of market individualism.\(^{332}\)

If it has yet to be consistently applied to foreign policies, including international economic policies, it is hopefully only a matter of time. There is an urgent need for a new internationalist project, based on the value that human beings across the globe share a

common humanity which gives people everywhere a responsibility to concern themselves with the suffering of others. This principle is embodied in the Geneva Conventions and all the international law that applies to war, which commits governments to help to protect civilians wherever they are threatened. In a very real sense, this gives people everywhere a stake in the foreign policy of all morally responsible governments. A ‘stakeholding foreign policy’ would not only look to a nation’s short-term interests, but to the basic rights of all people.

Throughout, this thesis has tried to avoid oversimplifying the causes of wars, or being over-optimistic about the chances of solutions. Everything can not be done. But the ‘something’ which can be done, must be done. Nelson Mandela, speaking in Oxford in July 1997, observed:

Few would have imagined 50 years ago that the closing years of this century would see so much of humanity ... still blighted by insecurity stemming from violent conflict ... Few would have imagined that stability and security would continue to be under threat because so little has been done to reverse the growing gap between rich and poor.\footnote{Mandela, N ‘Renewal and renaissance: towards a new world order’, lecture by the (then) President Nelson Mandela at the Oxford Centre for Islamic Studies, Oxford, 11 July 1997.}

Reversing the gap, building that stability and security, should be the aim of any ethical and moral foreign policy, including Australia’s.
Chapter 12 – Conclusion

Introduction

Rather, as this work has sought to illustrate in a number of ways, events such as these, occurring in that space beyond the Cold War, expose ever more starkly the inadequacies and dangers of Traditional thinking and behavior within the International Relations community, particularly among the “victors” of the Cold War. More precisely, the theory as practice of violence, dichotomy, and global containment that defined the post-World War II world and gave coherence, meaning, and identity to a generation in the West, is now exposed as a serious impediment to dealing with a complex, changing, global environment in the 1990s. The point, simply put, is that the deep, multifaceted problems of the Middle East region, of warlordism and famine in the horn of Africa, of exploding ethnic hatreds in the Balkans, of culture, gender, transmigration, and global economic crisis, cannot be “solved” by recourse to crude power politics dogma, nor even the most fear-inspiring display of contemporary technorationalist savagery, for all its laser-directed fascination for some sectors of the community.


While this thesis has examined many moral philosophical arguments and theories that could lead to a prevention of war, in practical terms, these arguments can only be framed in the context of irreconcilable impediments to this goal.

In Chapter 1 (page 27) I introduced the concept of utilitarianism to this debate. Theoretically,
utilitarianism seeks the greatest good for the greatest number. However, there are a few problems with its successful application to contemporary international relations. First, utilitarianism believes that the ends justify the means. "The utilitarian doctrine is that happiness is desirable, and the only thing desirable, as an end; all other things being desirable as means to that end". Consequently, there are situations where the extreme suffering of the few can be justified by the benefit of the many. Some even argue that utilitarianism can justify the existence of an impoverished class, or even slaves. Furthermore, utilitarianism lends itself to a type of power structure where the majority rule. In some cases throughout recent history, the opinion and practices of the majority, at the cost of the minority, have later seemed to be immoral. With the lynching of black men in the southern United States of America being a case in point. Another problem is the implication from utilitarianism, on page 28, that each person is regarded equally. In other words, that the happiness or suffering of one person is equal to that of another. In terms of contemporary international relations, the status quo favours some people over others. For example, the life of a European diplomat is obviously worth more international concern than, say, an African child. Therefore, it is fair to say that the existing power structure in international relations favours the happiness of those in powerful countries and ignores the suffering of those in powerless countries.

Also in Chapter 1 (page 30), I asserted that moral beliefs should not be accepted uncritically, but should be examined and questioned. However, the search for critical evaluation is one that in many ways is ridiculed and ignored. For various reasons those who question and enquire are deemed ineffective in helping to solve violent conflicts. In the post-World War II world order, generally, the only place where critical evaluation is valued is in universities and other institutions, and any critical evaluation applied to current conflicts is not welcomed by politicians and the military in the 'real' world.

In framing the debate between objectivism and subjectivism in Chapter 1 (page 31), I mentioned that moral disagreements are usually based on disagreements about what is the

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case. If we look even deeper, it can be claimed that this dispute over facts is due to there being many realities in international relations. In other words, what one group claims is the case is very real and is drawn from an understanding of the facts. When another group draws a different understanding from the same facts, this is also very real. Consequently, because objectivism is still endemic in international relations, there is no conceptual space for many realities, there is only room for one ‘right’ reality, leaving anything else to be considered ‘wrong’. While this objectivism is still entrenched in international relations, it is impossible to reconcile disputes over facts and morality, especially those between cultures. “Morality differs in every society, and is a convenient term for socially approved habits”. 335

Furthermore, in Chapter 1 (page 227) I reiterated the idea that ‘defence deterrence’ might be a practical policy that prevents and resolves conflict. However, for many reasons, deterrence in practice creates destabilization within the international community that encourages arms racing.

In the second part of this thesis, I discussed how war is preventable and why it is often not prevented. However, as discussed in Chapter 10, early warning alone will not ensure successful preventative action unless there is a fundamental change of attitude by governments and the international community. The international community should not simply wait for unambiguous disasters and mass slaughters before they take preventative action. Rather, a systematic and practical early warning system can and should be combined with consistently updated contingency plans for preventative action that provides leaders with a repertoire of responses. It is with this objective in mind that I will address my conclusion that focuses on the impediments to this goal. Consequently, in this conclusion I will discuss the problem of intervention, the moral foundations of man, the problem of sovereignty, the challenge of humanitarian intervention, and the first steps to humanitarian intervention.

The Problem of Intervention

The problem of the intervention of one state in the affairs of another is not new but has taken on a greater urgency and sharper focus in the decade following the demise of the Soviet Union. The fifty years of the cold war, although materially and spiritually debilitating, imposed an international order wherein military interventions were somewhat structured and restrained. This happened in two ways; first, no interventions, whatever the pretext, could be entirely divorced from the ideological and geopolitical perspective, the task of the United States and its allies during the long period of confrontation was to prevent the Soviet Union and its allies from consolidating power on the Eurasian land mass, that great “world island” that contains most of the world’s population, resources, and geopolitical perspective. In this sense, the United States merely continued the policy carried out by the British over the preceding five hundred years. Hence, there is a sense in which all the interstate wars of modern European history are the same war. As with Bonaparte, the Kaiser, and Hitler, the cold war sought to prevent Eurasian hegemony on the part of any single power or alliance of powers. For not only would such an outcome be inherently dangerous, but also the hegemonic power, having consolidated its position, would be poised for global power projection.

The ideological dimension of the cold war also conditioned interventions. Marxism, as filtered through Russian history, was incompatible with the Judeo-Christian conception of man. In fact, it was a system built on deliberate falsification of reality. As such, it eventually suffocated in its own lies. In the meantime, Marxism was able to mobilize many people around the globe, not the least of which were intellectuals in the West, especially in the universities. Questions of intervention thus always had a sharp ideological dimension, most clearly in the case of the Vietnam War.

The second sense in which military interventions were structured and restrained during the cold war was the omnipresence of the nuclear threat. Extreme caution had to be exercised regarding any intervention, regardless of its scope and geographical location. There was
simply no way of knowing whether any intervention would start the powder train to nuclear holocaust. It was over a projected U.S. intervention in Cuba that the world came as close as it ever has to nuclear war. A distinguishing feature of the cold war period was that the strategy adopted by the west to deal with Soviet hegemonic aspirations tended to maximize temptations to intervention, temptations that were simultaneously dampened by fears of nuclear war.

The strategy of containment proposed by George Kennan in 1947 was adopted by the United States in its essentials. Containment envisioned encircling the Soviet Union with economic and military alliances until such time as communism collapsed under the weight of its internal contradictions. While this is in fact what happened, critics at the time pointed out that containment would force the West to ally itself with an array of morally unsavory client states and to prop them up, often against the wishes of their citizens. Moreover, as containment is a balance-of-power strategy, the Soviets would be constantly testing the balance, thus requiring the United States to intervene continually around the Soviet perimeter. Indeed, the Soviets made frequent attempts to push through cold war boundaries (in Korea, Vietnam, and Berlin) or to leapfrog containment (in Cuba, Nicaragua, and Angola). There is a certain irony in all this. Balance of power invites a multiplicity of conflicts as each side probes the weak points of the other.

Overall, containment was a success because Soviet strategy was, in any case, hegemony by attrition, not by overt warfare. In general, it may be said that interventions throughout the cold war were often counterproductive. Many small third-world nations became, however willingly, cold war pawns whose development was stifled or set back by the game of geopolitics. Ethiopia, Somalia, and Angola are obvious cases, as are Cuba and Nicaragua, but there are many others. The major powers did not escape either. Vietnam and Afghanistan turned sour when the would-be beneficiaries of intervention proved ungrateful or uncomprehending. As we shall discover, there is often a very large gap between the (sometimes) good intentions of the interveners and the carrying out of an operation. There are many reasons for this, the primary one being that an army is an extremely blunt instrument for
carrying out an act of charity and many good intentions become lost in the fog of war. We must be clear at the outset that there are no “surgical strikes” and that “limited objectives” rarely are. An analysis of interventions must keep clearly focused not only on intentions (where most of the public debate seems to be) but also on means and likely outcome.

The cold war generated an interesting shift in perceptions about the purpose of military establishments. Modern armies and their traditions and practices are descended from European and classical Greek class notions (officers and men) about violence as ennobling and morally regenerative. While World War I put a large dent in this view, it took the cold war to alter public perspectives. Much has been written about the “Vietnam syndrome” as if it were an isolated virus from which America should try to recover as quickly as possible. However, Vietnam may well have been merely an illustration of a large-scale trend away from the efficacy of war in the modern world. Whatever the truth of that perception, public opinion, as well as military doctrine in the industrial countries, continued to shift during the cold war in favor of a strategy wherein deterrence was seen as the prime function of the military. As noted, this was in part due to the nuclear Sword of Damocles but also to an awareness that the cost and destructiveness of modern conventional weaponry had begun to exceed the benefits. The secretary of defence during the Regan years, Caspar Weinberger, was brought to formulate a set of criteria for the activation of U.S. forces of such stringency that it was widely joked to have brought about the end of warfare. Hence, as we entered the post-cold war era, public opinion as well as that of influential sectors of the military indicated less than full enthusiasm for the use of the military. Moreover, as communism fell through the “velvet revolution” (i.e., nonviolently), there was even deeper uncertainty over the role of military forces.

The Bush Administration began with a search for an international system to replace the order imposed by the strategy of containment. The much-vaunted New World Order accompanied by “end of history” theme music very quickly got nowhere. In considering the ethics of intervention, it is very important to examine why this is so. In doing so, we see that the past fifty years form a pattern of successively failed attempts to create a supranational system to
deal with the perceived problem of international anarchy. This view, which has more or less dominated, may be traced back to the Enlightenment insistence on the primacy and universality of Reason. In a famous incident of the French Revolution, a party of revolutionaries entered the cathedral of Notre Dame and replaced the crucifix from the high altar with a statue of a beautiful young woman, the goddess of Reason. Thus, a religion of spirituality was replaced with a rationalist ideology that was antithetical to the historical particularity of the Incarnation. This Enlightenment committed to universal Reason carried with it a corresponding antipathy to the particularity of peoples, nations, ethnicity, and religion. However, successive efforts to transcend nationalism, culminating in a failed Marxist internationalism, suggest something irreducible about national, linguistic, ethnic, and religious groupings. Successive empires, hegemonies, and “new world orders” have come and gone but national groupings remain stronger than ever. There is certainly some truth in the “global village” idea fostered, it seems, mainly by international capitalist enterprises. The ubiquity of certain kinds of movies and clothing should not be taken too seriously, however. Beneath this faddish skin lies the meat of nationalism.

There is no contesting that many forms of intervention have been and continue to be generated by Enlightenment Reason bent on eradicating the “irrationality or particularity,” and this goes for at least some cases of humanitarian intervention. Perhaps the clearest recent statement of the irreducible character of cultures is in Pope John Paul II’s Centesimus Annus. After noting that the fall of Soviet Marxism was partly a result of failed economic theory and practice, John Paul adds that Marxist internationalism and class theory were also factors.

It is not possible to understand man on the basis of economics alone, nor to define him on the basis of class membership. Man is understood in a more complete way when he is situated within the sphere of culture through his language, history, and the position he takes toward the fundamental events of life, such as birth, work, love, and death. At the heart of every culture lies the attitude man takes to the greatest mystery: The mystery of God. Different cultures are basically different ways of facing the question of the meaning of personal existence. When this question of the meaning of personal existence. When this question is eliminated, the culture and moral life of nations is corrupted. For this reason the struggle to defend work (in Poland) was spontaneously linked to the struggle for culture and national
This is a profound reflection suggesting that culture (including national culture) forms a basic natural element in human society, much like the family. It is through culture that a human society, much like the family. It is through culture that a human completeness is achieved that is not possible elsewhere. The kind of internationalism so prevalent in many guises in this century is an abstraction, a product, or rationalism. It is only in the cultural context that man finds a complete array of fundamental questions that, as John Paul puts it, bears on the issues of life and death. The connections (or interconnections) among language, culture, and historical experience are reflective of the many dimensions of man. This implies a certain inviolability of culture. As a form of human association that has gradually evolved, creating a form of life, there is an organic integrity that may not be readily intruded upon. The moral question of intervention must, therefore, take this kind of fundamental particularity as a datum not subsumed into some higher form. This is another way of stating the principle of subsidiarity, which is a principle of self-help wherein decisions are made at the lowest possible level of administration. The purpose of an intervention must ultimately be to help people to help themselves.

The precise role of community in realizing human good will be explored shortly, but here we can say that particular human associations are not optional but, rather, are the natural matrix for facing the critical value questions of human life. There is, therefore, a strong presumption against any intervention that inhibits this process.

**Moral Foundations**

While it is true that to tamper with culture is to disturb something intrinsic to the person, it is also true that there is something universal about man. All must be treated justly because all

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share in a common human nature ordained to a set of specific goods. It is the violation of this universal order by some particularity that raises the issue of intervention. For it is not an adequate answer to the question of intervention to tout the integrity of culture as if that were an absolute. As St. Augustine well put it in The City of God, “In the absence of justice, what is sovereignty but organized brigandage? For what are bands of brigands but petty kingdoms?”

As discussed in Chapter 2, it is necessary to sketch out at least briefly the theory of human good. What distinguishes man from all other creatures on earth is his freedom for self-determination. All other creatures fulfill their nature merely in terms of their intrinsic capacities for development. Only man may choose to live according to his nature or in opposition to it. In this way, each choice creates the chooser in one direction or another. The individual is, in effect, a work of art that is never finished until natural death. We are not absolutely free, as God is. Circumstances and natural inheritance condition freedom. Nevertheless, as the marvelous variegation of human history shows, man shapes his future in the face of an openness unknown to the animal kingdom. The question thus becomes: What are the proper objects of our choices? Another way of putting this question is to ask whether there are any prior constraints on human freedom. Many philosophers have, of course, argued that there are no such constraints. Jean Paul Sartre claimed that if we are not created by God, then man is identical with his freedom. Although Sartre goes on (inconsistently) to invoke the notion of responsibility, clearly, if we are not creatures, if we are not for anything, then quite literally, anything goes. Most people would balk at such a conclusion in practice, although it is very easy to get modern people to assent to the theory. The current fad for deconstruction is the latest incarnation of the view that we are identical with our freedom. But when we find a philosophical theory that is incompatible with the way we live, then there is something wrong with the theory. In fact, we clearly know that some choices are better than others. For example, a life devoted to the pursuit of knowledge is better than one mired in ignorance and superstition. This life is better not only in some consequentialist sense but because such a choice for truth makes the chooser better off as such. Similarly, a concern to will the good for

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another person for that person’s sake is a better act than to reduce that person to a use relationship. Genuine human fulfillment is thus predicated on an objective order of human good. We simply do not always know what is good for us, which would be the case if we were identical with our freedom. People make mistakes in their life choices, but such errors are only possible if there truly are human goods about which one can be mistaken.

Reason can help us to identify these goods. Because such goods are fundamental, the object of our choices, they must be simple and self-evident. Because human freedom is open-ended, the good, the proper objects of human freedom, must also be open-ended. Examples of such basic human goods are life, knowledge, and friendship. To pursue knowledge is not to seek a specific goal whose acquisition might be fully accomplished but to participate in an ongoing activity that is worth doing for its own sake. Similarly, friendship is not an accomplished but is ever developing as the friends continually explore new facts of their relationship. It is the participation in such objective human goods that constitutes human fulfillment. Happiness is, thus, accomplished not by having experiences or by having things, but by living well, where living well means maximizing one’s opportunities to participate in the basic human goods.

It follows, in Chapter 3, that genuine or integrated human fulfillment requires that we respect the integrity of each basic human good. Human choices must be made in the light of all the goods, as these goods are essentially incommensurable. It makes no sense, for example, to try to “weigh” one life against another or to try to balance friendship against knowledge in order to achieve some sort of maximization of good. Because they are open-ended, the goods are not quantifiable. There can be no consequentialist calculus. On this view, evil is the pursuit of one good by means of the suppression of another. A woman seeking an abortion seeks a good for herself of greater life prospects at the expense of the life of the unborn. Two students cheat on an exam to cement their friendship, but they do so at the expense of truth. Human fulfillment can never be achieved in this manner because, quite apart from harming others, such persons cut themselves off from those goods, the participation in which is fulfilling to them. While it is common today to express skepticism regarding an objective moral order, it is not really
possible without contradiction to deny such an order while living in the real world. Do skeptics really think that friendship might not be good? Or if someone were to deny that the pursuit of knowledge was good, what would they be saying? Presumably, their reason for telling us this is because they think it important that we know this. So the denial that knowledge, which it is, presumably, good for us to know. Indeed, to speak at all implies a range of human goods, including truth and community.

Further reflection on human good leads to the conclusion that they cannot be fully realized outside community. This obviously goes for knowledge, which is a cooperative enterprise, and for friendship. However, the same is true of life (which requires protection and sustenance), aesthetics, integrity, and religion (which requires, minimally, a relation to God). If the good of others is truly tied up with my good and if human goods have a transcultural character, then the political or cultural boundaries within which I dwell may not be regarded as absolutes. In other words, my obligation to help others in their need is not unconnected with my own fulfillment. The virtue of charity is, thus, central to the moral life because only through self-giving love (which entails a forgetfulness of self) is the self-fulfilled. This uncalculated giving is obviously not confined a priori to any particular group or political configuration but is potentially directed to all.

Now, it must be admitted that charity as the focus of the moral life is somewhat mysterious: an uncalculating self-giving that is the fulfillment of the self. Yet, anyone who has ever been in love knows experientially the truth of this mystery. A lover cares for nothing but the good of the beloved is totally absorbed in the other, wishes only to be with the beloved. If asked later when was he the happiest, he will, of course, say, “When I was in love!” We should cleave to lovers rather than to philosophical skeptics. We may seem to be very far from our topic. We are not. The issue of intervention is the question of the range of charity, and if the universality of human goods is a fact, then the range of charity is coextensive with the human community. As with all loves, there is a delicacy of calculation (or perhaps better, insight) regarding this matter. As charity involves intimacy, we must be very cautious not to intrude
where we are not wanted. Thus, intervention requires a maturity of judgment, an ability to maintain the essential dignity of the other while providing a self-effacing help. We will find no mechanistic criteria here but only prudence on a foundation of virtue. There is no political science, only a fixed awareness of the good awareness of the good and the will to seek it.

An intervention is a political act, the province of organized national states in the modern world; we must inquire into the purpose of statecraft. It is common since Machiavelli to distinguish between an idealistic and realistic conception of the purpose of the state. A transitional figure, Machiavelli argued that while the Prince should be good when and as he was able to do so (for, after all, it is good to be good), yet he must always be prepared to do evil when necessary. What necessity is this? His answer is the gateway to modernity. The newly emerging national state, Machiavelli believes, provides the sole realm of order. The spiritual order of Christianity has failed to materialize because it is rooted in the idea of justice rather than power. The saint monarch or the Platonic philosopher king is a fiction. Hence, realism demands a political philosophy based upon the absolute sovereignty of the state as the only unit capable of preserving human life. However, Machiavelli surely exaggerates the degree of necessary animosity among peoples (as does Hobbes, even more so). No state is really sovereign but is a member of the community of nations. Trade and other commerce are just as much necessities as territorial antagonism. Religion also forms a bridge among nations, even though Machiavelli downgrades this tie. In short, a *Realpolitik* that posits an irreducible antagonism (a permanent war of all against all) is itself unrealistic. No one really wants to live in that kind of world as, among other things, such a world would be extremely dangerous. We are made to live in concord and men naturally seek peace. So we must avoid positing a chasm between *morality* and realism. Policies that seek to effect peaceful relations among nations *are* the pursuit of realism.

On a more balanced view, the purpose of the state is much what St. Augustine thought it to be: the preservation of a just order among men. If there are basic human goods and if participation in these is the condition of human fulfillment, then the role of the state is to
foster these goods and the opportunities for such participation. As community is not an
optional choice, we need to recognize that we are members of a larger world community
whose good is intimately linked to our own good. No matter how imperfectly such a world is
realized in history, there is no choice but to direct the state toward this ideal. To see the state
as a form of charity is at once to understand it in an activist sense. The state has duties of
commutative and distributive justice not only to its members but to all who form the human
community. The capacity of the state to undertake this task will depend upon its vitality and
that will depend upon a reasonable self-regard. As with any community, leadership will have
an obligation first to its members' well being. A father, for example, has special obligations to
care for his children, which he does not have for children in general. However, having duly
recognized this, his relation to others outside his family does not consist merely of negative
duties (e.g., to refrain from harm). He will also have the positive duties of fostering the good
of others. Why is this so? Because the basic human goods are open-ended and, therefore, not
the possession of anyone. They are common goods that are the condition of human
flourishing. Hence, if life or integrity are goods for me, they are also goods for others.
Moreover, in the exercise of charity toward those who are suffering lies my own fulfillment,
not in some sense of "enlightened self-interest," but in the sense that the fulfillment of self can
only come through the forgetfulness of self. As free and self-determining beings we are, by
nature, self-transcendent and it is through acts of charity that such transcendence occurs.

This much natural reason can tell us. These deliverances are also derived from, and
powerfully reinforced by, Christianity with its roots in Judaism. Hence, it is not a matter of
chance that conceptions of human rights, human equality, and democracy developed in the
Christian world. It was also this world that generated the idea of international law,
international mediating institutions, and tradition of the just use of force. The reasons for this
are fairly clear: For Christianity, all men are creations of the same Father and spring from the
same primordial parents. Human fate is thus tied to this intimacy of communion. There are no
foreigners. Not only are all brothers, but the Incarnational principle enormously enhances
human dignity. The fact that God entered history in human form, not disguised as a man, but
as “true man” divinizes humanity and makes possible the conception of each human being as having infinite dignity and worth. When these revelations are coupled with the idea of God as charity (not the one who loves, but the one who is love), whose very being is a dynamic of love, the application to a neighbor is obvious: This is my commandment: Love one another as I have loved you.

This conjunction of reason and revelation forms the basis of Western civilization and, because the world is now largely Westernized, increasingly, of global civilization. While respecting the specific forms that human communities take in history, and while recognizing the truth of Baltasar’s remark, “Truth is symphonic,” there is a clear imperative to create a world community of independent self-determination may not be directed to merely any end, but to the fostering of basic human goods. That is, the purpose of self-determination is the all-round flourishing of the members of the community. This cannot take place without justice — the rendering to each man his due. Natural justice is properly enforced by the polis, but as there is no global polis, enforcement of natural justice is the province of civilized states. That this should be done through the machinery of existing international bodies is obviously desirable as one of the key impediments to just intervention is the charge that states intervene only to further some interest of their own. Just as an individual is not a proper judge in his won case, so a nation is not either.

The Problem of Sovereignty

As raised in Chapter 4, just interventions involve the use of force and this is, in the end, what makes them problematical. St. Augustine reminded us that the use of force by one person to subjugate another is a consequence of man’s fallen nature. We naturally are made for concord and equality as children of the same Father, but due to the disordered passions, we tend to concupiscence, a disordered love of creatures, especially ourselves. Augustine’s point is that

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while the use of force to achieve justice may be necessary as a means to achieve earthly justice, those who are wielding the instruments of force are as weakened in their natures as are the objects of their attack. And he goes on to point out how frequently in human history do the just slide into the unjust. This is a most important warning. Any kind of domination of one by another is a substitute or a shadow of Divine justice; therefore, those undertaking to effect justice by force should do so in a spirit of service to others animated by a lively sense of humility (there but for the grace of God . . .).

It also follows that the use of force must not be entered upon without a deep moral seriousness evinced by a willingness to ask a series of defining questions. These defining questions are known as the tradition of the Just War. As indicated, they consist of a series of questions that any moral person must ask himself before resorting to force.

As discussed in Chapter 4, the set of conditions styled jus ad bellum covers questions pertaining to initiating combat. Of specific importance is the “last resort” clause. Especially in the context of intervention where sovereignty is being breached, it is very important that serious efforts be made (and be seen to be made) to find peaceful solutions to the problem. Jus ad bellum was devised to deal with the issue of interstate conflict, the aggression of one state against another. At least this is how the tradition has developed in the modern era, especially as its provisions have been translated into international law. However, it is most interesting to note that in the earliest medieval formulations of theory, jus ad bellum specified the obligation of “Christian princes” to correct injustices that had gone uncorrected in the realms of other princes. This vigorous sense of the primacy of natural justice over sovereignty was gradually replaced in the era of the modern bureaucratic state by conceptions of “absolute” sovereignty. By the nineteenth century, doctrines of “reasons of state,” whereby national leaders could claim immunity even from international law (not to mention morality), had come to the fore. This development was an evolution of the Machiavellian theme that “. . . in the actions of men, and especially of princes, from which there is no appeal, the end justifies the means.” Machiavelli thus introduced us to a schizophrenic conception of ethics — personal morality is
divorced from statecraft. Privately, a man should pursue the basic human goods, but the Prince is, perforce, required to shift into a consequentialist mode in order to “save the state”: “Therefore it is necessary for a prince who wishes to maintain himself, to learn how not to be good, and to use this knowledge and not use it, according to the necessity of the case.”

Hence is born the idea of state necessity. Machiavelli is clear that in a world of absolute sovereignty, the only hope for the “good life” is within the context of some polis, hence the overriding necessity of preserving the political order at all costs, including moral costs. The Machiavellian model represents a violent rupture of the natural law tradition and sets the course of Western political thinking inexorably toward “reasons of state.” However, as argued in this thesis, absolute sovereignty is a morale fiction. If something is a basic human good, it is good for all men. In this sense, the human community is paramount not as an administrative unit, but as a moral order. Within the human community, specific natural forms emerge: the family, religion, and the polis. And while these exert special obligations, they do so against the background of a shared human nature.

The intolerable character of absolute sovereignty as a theory, reaching its zenith in the nineteenth century, was counteracted in two ways. First, development of the international law and conventions regulating war continued the tradition of Hugo Grotius and other seventeenth century jurists. In the present century, these efforts issued in the Hague and Geneva Conventions as well as the League of Nations and the United Nations. Second, and in some sense underlying the first development, was the theory of national self-determination. On this view, “peoples” have a right to determine the shape of their association, including political association. There is an important grain of truth in this view. As argued above, familial, religious, cultural, and national configurations are critical modes of human relations wherein persons confront the choices that shape them. There has been much discussion of the principle of self-determination and, indeed, there are many objections to it, not the least of which regards the difficulty of precisely specifying what group is to count as “a people.” But the key difficulty resides in the fact that the principle of self-determination, as it has evolved, is a

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reaction to absolute sovereignty and, as such, shares the same absolutist tendencies. It is now frequently proclaimed that every ethnic group has a “right” to its own state. Such claims are preposterous given the manner of distribution of such groups and their sizes. But the problem is not with such groups themselves — they merely take advantage of the quasi-religious status accorded to the principle in many quarters. Rather, the principle is itself fatally vague, failing to specify a workable definition of a “people” or what size a self-determining population has to be. Moreover, why such groups have an overriding right to sovereignty is not argued. Interventions on behalf of such groups are, therefore, morally problematic. Perhaps the requirements for third-party intervention could be significantly lessened if self-determination were not conceived as an all-or-nothing proposition. That is, we might instead adopt a strategy of protecting minority groups and their integrity within the larger sovereignty in which they find themselves.

The Challenge of Humanitarian Intervention

In this regard, the most extensive theory of just intervention, as stated in Chapter 4, is that of Michael Walzer in Just and Unjust Wars. Walzer accepts the modern order of sovereignty not only as an historical fact but as a moral good. Working from a rights-based theory, he argues that people must not only be understood to have rights, but they must have a place or “space” within which to exercise such rights. Hence, the moral significance of sovereignty is that it provides a protected place for self-determination and for the exercise of human rights. So Walzer (correctly) understands that sovereignty is an instrumental good, not an end in itself, but one that (all things being equal) deserves the very strongest presumption of inviolability. Without that presumption by the community of nations, the stability required for long-term choices would be absent. Yet, there may surely be cases where breach of such sovereignty is morally required. In such cases, the burden of proof will fall squarely upon the intervener.
Sovereignty is the only way we have of establishing an arena within which freedom can be fought for and (sometimes) won. It is this arena and the activities which go on within it that we want to protect, and we protect them, much as we protect individual integrity, by marking out boundaries that cannot be crossed, rights that cannot be violated. As with individuals, so with sovereign states: there are things that we cannot do to them even for their own ostensible good.  

Yet Walzer urges that the traditional legal barrier to intervention cannot (from the moral point of view) be absolute, partly because boundaries are not fixed by nature and partly because political communities are not always perfectly homogeneous. Even so, one undertakes an intervention with trepidation. First, because there will always be a suspicion regarding the motives of the intervener. Is the intervention self-serving? Does it matter if it is partly self-serving? Is there self-deception or just plain deception? Second, communities like individuals, can only flourish if they are free to make self-determining choices. Hence, there is the strongest possible presumption in favor of communal autonomy.

Walzer distinguishes three cases of just intervention: “1. Cases of the breakup of a sovereign state caused by the secession of one faction from the rest. 2. Cases where a country has already been invaded and third parties face the question of counter-intervention. 3. When the violation of human rights within a set of boundaries is so terrible when it makes talk of community or self-determination of arduous struggle seem cynical and irrelevant, that is, in cases of enslavement or massacre.”

It is the third sort of intervention that has come to the fore as humanitarian intervention with which we are chiefly concerned. In developing his view, Walzer draws on the argument of J. S. Mill that the internal freedom of a political community can be won only by the members of that community. This view rules out the substitution of foreign intervention for the internal struggle.

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340 Ibid, 90.
A state is self-determining even if its citizens struggle and fail to establish free institutions, but it has been deprived of self-determination if such institutions are established by an intrusive neighbor. The members of a political community must seek their own freedom, just as the individual must cultivate his own virtue. They cannot be set free, as he cannot be made virtuous, by any external force. Indeed, political freedom depends upon the existence of individual virtue, and the armies of another state are most unlikely to produce . . . self-determination is the school in which virtue is learned (or not) and liberty is won (or not). 341

There is, Walzer claims, a specific sort of exception to this general rule, which he (correctly) regards as, in general, a good one. The imperative to self-help presupposes a level of political peace that renders long-term choices possible, where people are under such massive oppression as to make the very idea of self-determination nonsensical. “When a people are being massacred, we don’t require that they pass the test of self-help before coming to their aid. It is their very incapacity which brings us in.” 342

Consequently, humanitarian intervention is less like conventional military intervention and more like domestic police work. Walzer seems to be saying that when a state so oppresses its people to the point that they are unable to resist, such a state gives up clear title to sovereignty. And while legally the title remains in international law, morally there is a duty of charity to intervene. “People who initiate massacres lose their right to participate in the normal (even in the normally violent) process of domestic self-determination. Their military defeat is morally necessary.” 343

As discussed in Chapter 4, Walzer’s arguments for humanitarian intervention were first stated in 1977. In the context of the cold war and of the state of international law, he necessarily sharply contrasted the legal situation (the legalist paradigm) with the requirements of ethics. But with the fall of the Iron Curtain and the subsequent New World Disorder, the system of international law has rapidly begun to reflect the moral arguments advanced by Walzer and, of course, those earlier defenders of natural justice.

341 Ibid, 87.
342 Ibid, 106.
Turning again to the post-cold war situation, we find a remarkable change of attitude as well as of policy. As noted above, *jus gentium* had evolved into a rigid doctrine of absolute sovereignty by the end of the nineteenth century. This meant that states were strictly prohibited from interfering in the affairs of other states. “Internal” affairs were understood to include such diverse matters as the form of government, the structure of the constitution with its due apportionment of rights and duties, the economic system (and, thereby, the definition and implementation of distributive justice), and the social relations among members of the community. In short, sovereignty was construed to cover all relations between citizens and government and among citizens as specified by law or custom.

The conceptual and historical evolution of this position, radical though it is, is not difficult to follow. Under the traditional theory of statecraft, of which *bellum justum* was a department, it was axiomatic that a Christian prince was duty bound to correct injustices in the realm of delinquent rulers. Such was the duty of charity that knew no bounds. This view began to deteriorate with the Machiavellian separation of politics from *morality*: *Morality* becomes a personal matter of the sovereign individual will and political (and, by extension) international relations become a matter of power. The modern state was the product of this conceptual shift away from the dominance of natural justice with the Christian prince as its enforcer.

Once the new system was in place (clearly by the seventeenth century), it then became easy to argue that the *cause* of war and international strife was the propensity of states to meddle in each other’s affairs. In other words, the primacy of the sovereign will that was replacing the idea of the common good in interpersonal relations was simply writ large on the international scene as absolute sovereignty. Once this shift had occurred, there was little choice but to legally reinforce the new arrangement.

In the twentieth century, absolute sovereignty has been continuously written into the Law of

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345 Ibid, 105.
Nations: The Covenant of the League of Nations (1920), The Convention on the Duties and Rights of States in the Event of Civil Strife (1928), and the Montevideo Convention on the Rights and Duties of States (1933). Moreover, it seemed self-evident to policy makers that the catastrophic conflicts of this century often followed breaches of national sovereignty, breaches that were frequently disguised as interventions in aid of some beleaguered party. In response to this perceived danger, the framers of the UN Charter were careful to build absolute sovereignty into law. Article 2, Section 7 specifically forbids intervention by one state into the affairs of another except in cases of self-defence, where this is understood or defined as the violation of recognized international borders.

As examined in Chapter 9, a simultaneous historical development further strengthened the idea of sovereignty. In the immediate postwar period, the legal principle of the self-determination of peoples was specifically applied to the colonial territories of the European powers. One effect of this was to provide a powerful disincentive to intervention. Ironically, the imperial system of the eighteenth and nineteenth centuries was one response to the international anarchy created by absolute sovereignty. But the prevailing ideology of the autonomous will plus the inability of the colonial powers to retain their possessions rendered imperialism a temporary phenomenon. As a result, the theory of self-determination reached a peak in the 1960s. As a rubric for decolonization, the principle of self-determination could only reinforce absolute sovereignty.

Supplementing these political developments were the moral arguments, principally of the sort advanced by Walzer as discussed above, which claim that in a world of sovereign states, nonintervention is a precondition of the full exercise of self-determination (i.e., in a world in which the autonomous will is definitive of morality, the territorial integrity of the state is the final guarantee of rights).

And yet, these arguments are flawed because they are in conflict with the basic human goods.
Or, at the least, the legalistic understanding of sovereignty must be conditioned by the idea of the good. This point is clearly made in a recent report of the Wilton Park Conference on the United Nations in the New World Disorder. The conference brought together an array of senior diplomats, policy makers, and academics. Commenting on the United Nations' support for a policy of nonintervention, the report states:

However, Article 2 (7) is flawed because it sacrifices the cause of justice for peace. If strictly observed, it would bar any thought of exerting pressure on a tyrant, no matter how ghastly the crimes he was inflicting on his people, because his sovereignty was absolute within the frontiers of his state. But in the New World Disorder, the boundaries between domestic and international affairs is becoming more blurred, making it difficult to ascertain where the domestic affairs of a state end and the international domain begins.

The view now prevailing is that the observance of fundamental human rights knows no national boundaries and therefore should no longer be disregarded on account of state sovereignty. In early international law, when waging war was not outlawed, intervention was seen as a measure short of war. The assumption was that if a state could legally wage war, then it could intervene in a more limited way, including on humanitarian grounds. Intervention by a state in the internal affairs of another state seemed to have been warranted when its own citizens or the citizens of the state subjected to intervention were mistreated in a way inconsistent with civilized behavior.

As demonstrated by support for intervention in Northern Iraq, Somalia, and Liberia and in former Yugoslavia, there is a fundamental shift in international public opinion in favor of intervention on humanitarian grounds and a stronger commitment to protection of human rights. UN Resolution 688 stated that people in distress and in dire need have the right of access to humanitarian assistance. Resolution 43/131 urged "states in proximity to areas of natural disasters . . . to participate closely with the affected countries in international efforts with a view to facilitating to the extent possible the transit of humanitarian assistance. Resolution 45/182 called for humanitarian corridors. These resolutions build upon the 1949 Geneva Conventions which recognize the right to humanitarian assistance, although its exercise had previously been predicated on the consent of the state concerned. However, lately the Security Council has asserted the right of humanitarian access in Bosnia, Iraq, and Somalia. Such access, with or without permission of the State concerned, cannot today be construed an intervention in
This quotation is typical of many such contemporary deliverances, statements that reflect a remarkable weakening of the doctrine of nonintervention. Also typical here is the “two-story” approach. The first level is a moral argument: “However, article 2 (7) is flawed because it sacrifices justice for peace.” In other words, the principles of natural justice supersede the Hobbesian/Machiavellian imperative to seek peace at all costs, even if this means tolerating an oppressive and murderous sovereignty. The first sign of a revival of the classical perspective of natural justice is also, necessarily, a revival of the just-war tradition, for it is in terms of discriminate and proportionate force only that interventions can be framed.

The second story of the two-story approach focuses on changed political circumstances, specifically the deterioration of absolute sovereignty as a result of the continuing emergence of a truly global community. While this in no way detracts from the importance of particular cultural perspectives, it does portend a weakening of political boundaries understood as inviolable. The argument here is twofold. First, the cold war order has collapsed and with it the sharp lines between domestic and foreign realms. Obviously, these are not obliterated, but the overwhelming weight of traditional international law in support of absolute sovereignty has dramatically declined, thus bringing jus gentium in closer accord with traditional theories of bellum justum and with theories of natural justice. Second, the weakening of sovereignty is itself a threat to peace. “A landmark Presidential Statement (doc. s/24111, 1992) in the Security Council observed that “non-military sources of instability in the economic, humanitarian and ecological fields have become threats to peace and security.”

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345 Ibid, 6.
This argument highlights the pragmatic dimension of humanitarian intervention. The danger to world peace constituted by sustained human and ecological misery is obvious. If the “global village” concept has any validity at the level, at least of commerce and advanced communications, then the traditional view of purely “international affairs” will be much diminished. This argument is interesting precisely because it reverses the traditional reasons for nonintervention. On that argument, the cause of war is the interference of states in the internal matters of other states, while on the new view, it is the failure to do so (in restricted situations) that is the cause of war.

The Wilton Park Report concludes with a summary definition of the criteria for humanitarian intervention that seems to follow closely the view of Walzer: “It appears that a custom has been or is in the process of being developed, on the basis of which humanitarian intervention is justifiable whenever, for lack of an effective government, a country slides into anarchy, thus jeopardizing seriously the lives, security and well-being of the people. It is therefore generally accepted by governments, non-governmental organizations (NGOs) and the public that the international community should not allow people whose country is plunged in chaos, as in Somalia and in Liberia, to be killed indiscriminately or to be subjected to massive and systematic human rights abuses by their government.” 346

I conclude this thesis by briefly analyzing the report’s seven-point criteria for humanitarian intervention (pp. 8-9).

1. It should be undertaken by the UN, or on its mandate and under its authority and coordination, and/or by the regional organization to which the state belongs, so as to secure international control and legitimacy. There are steadily growing objections to the insistence that alternatives be exhausted before force is considered.

346 Ibid, 7.
This provision wisely restricts the use of force to multinational organizations, the UN having the prime mandate as representing the global community. However, if there are regional associations with a more intimate and knowledgeable link to the conflict in question, such associations might be more appropriate means of intervention. There is also here the suggestion that the last-resort provision of *jus ad bellum* be more "realistically" interpreted. I take it that this is not intended as a "wink" at last-resort but a reminder not to slip into pacifism by default. In any event, the last-resort provision was never intended as requiring a sequence of nonbellicose stages leading up to the use for force. For example, some circumstances (such as a direct attack) would require force as the first step, even though this step would be the last resort.

2. *When carried out by a regional organization concerned, it should be preceded by consultations with the Security Council.*

Again, this is essentially a prudential matter, providing a system of checks and balances to maximize impartiality. Just as an individual is not a good judge in his own case, so a nation and, possibly, a regional alliance.

3. *It should be undertaken whenever there is a total lack of governmental institutions and the seriousness and the gravity of the humanitarian situation is such that the lives and well-being of the population as a whole is threatened. Intervention becomes a far more sensitive and a less practical proposition in cases where the country is still controlled by the government, although the lives and well-being of the population, or part of it, might be seriously threatened or might have been exposed to systematic and massive abuses by their government.*

Clearly, if sovereignty has *totally* collapsed, there can be no violation of sovereignty. Intervention under these circumstances would be to rescue people from a state of nature and hardly even to be described as intervention at all. So the key question here is whether intervention is justifiable under conditions of greatly reduced or attenuated sovereignty. In
short, is the key issue the degree of sovereignty or the degree of injustice or some combination of the two?

According to the report’s guidelines, decreasing levels of sovereignty do not rule out humanitarian intervention, but make it “problematic.”

4. It should be proportionate in the sense that it should not cause more damage and harm than that caused by the situation it intends to correct.

This is a restatement of the *jus in bello* principle of proportionality: The right to use force is not unlimited even if the cause was *morally* justified. States are not permitted to use force in excess of the threat to themselves and to those whom they are charged to protect. The principle is at once a *moral* principle and a deliverance of prudence. *Morally*, force can only harm the good of human life and, prudentially, the use of force must be in pursuit of some political goal, thus ruling out a use of force that would likely undermine the policy goals themselves. In the case of limited political goals (as are necessarily embodied in the very idea of humanitarian intervention), proportionality becomes a guiding principle of prudence. Disproportionate force is likely to be counter-productive.

5. It should not, in any way, interfere, influence, act against, or put into question the political independence and territorial integrity of the state concerned. At the same time, it should follow a strictly neutral approach in the sense that it should not attempt to take sides in the internal political conflict.

This is clearly the most controversial and, indeed, ambiguous of the seven principles adopted by the report and it will be necessary to analyze it more fully below. For now, we can say that it is entirely unrealistic to suppose that an intervention, labeled “humanitarian” or otherwise, should not in *any way* condition the political independence and/or territorial integrity of the
state concerned. Similarly, it is hardly likely that strict political neutrality is possible either, given that the genesis of humanitarian intervention is typically human suffering occasioned by political conflict.

6. It should be limited in time and space.

As with point 4, this is a restatement of just-war provisions. Ethically acceptable use of force must be limited in the sense of being proportionate and discriminate. Intervention must have clear and specific goals along with timetables and appropriate restraints on force levels. Traditional military concepts of defeat and victory (or winning and losing) are not meaningful in the context of humanitarian intervention. Pragmatically, this is certainly the most difficult provision to implement. As Clausewitz reminds us, force has an internal dynamic that tends to push it to an extreme. Military commanders in pursuit of their missions will necessarily seek to pacify, secure, and dominate ever-larger perimeters and sectors of territory and population. By nature aggressive and optimistic, they will also not be daunted by reverses and will seek to “press on regardless.” These admirable qualities, which their training reinforces, are in some tension with the idea of limited military operations. When this is taken in conjunction with the expectations of modern democratic populations that wars will be decisive in outcome, we have a recipe for trouble. Forces earmarked for humanitarian intervention will require long-term special training in these types of operations. Officers with the appropriate temperament and intelligence should be identified and their talents utilized in command roles.

We look to Clausewitz for another reminder regarding what he called “friction.” While war naturally tends toward the maximum expenditure of force (i.e., there are no restraints internal to war itself), yet the specific material and political conditions will exert some drag or “friction” on military operations. This phenomenon equally applies to timetables. History of warfare repeatedly shows that prewar timetables are always radically altered once combat commences. It is thus of critical importance that the civilian population be made fully aware
of the rationale (both ethical and prudential) behind a policy of just intervention and of the tentative nature of strategic planning that structures such events, particularly the stipulation of precise timetables and schedules for withdrawal. As in war, the unforeseen arises more often than not, it is well to prepare civilians for this possibility.

In short, the requirement of limited, discriminate, and proportional use of force can only be realized in a democracy if humanitarian intervention is clearly articulated as a national policy. Ad hoc expeditions inspired by journalistic emotivism will merely generate domestic controversy, making a bipartisan approach much more difficult. Australia, and its allies, must decide through open discussion what is to count as humanitarian intervention and whether such use of force is appropriate as a mission of the state.

7. In situations of anarchy, where there is a total lack of government and no other government institutions are in place, it might also prove to be necessary to include in its objectives the promotion of (and assistance in) the political harmonization of the country, without taking sides in the political conflict.

This provision stipulates a degree of political involvement under limited circumstances (total anarchy). Here again, grave questions arise regarding the possibility of political restructuring ("harmonization") without taking sides in the political conflict, for if there is "total" anarchy, there is no "political" conflict at all.

The Wilton Park proposals are thus typical of many public policy statements favorable to what is claimed as an emerging consensus on humanitarian intervention. It clearly reflects all the strengths, weaknesses, and ambiguities of this position. On the positive side, humanitarian intervention seeks to conform international relations more fully to traditional conceptions of natural justice and, thus, to break the stranglehold of absolute sovereignty. As the report puts it:
Thus a customary right of access to basic humanitarian needs mentioned in the Universal Declaration of Human Rights seems to have been formed which imposes a corresponding obligation on states: "there can (now) be no doubt that the provision of strictly humanitarian aid to persons or forces in another country, whatever their political affiliations or objectives, cannot be regarded as unlawful intervention, or as in any other way contrary to international law." Today the dialogue is no longer at the level of legal principles but of pragmatism. It is not a question of whether the international community has the right to intervene or whether it should intervene: it is a question of how and in what way. The issue is no longer whether humanitarian aid is intervention, but whether faced with the refusal of a state to allow access to humanitarian assistance, contrary to their obligation to do so, force can be used on humanitarian grounds. 347

At the same time, the principle of humanitarian intervention is circumscribed in a way that seeks to limit drastically the scope of just intervention by scrupulously respecting state sovereignty. That is, under specific circumstances, we are morally required to ignore sovereignty when lives and rights, as specified in the UN Declaration of Human Rights, are denied. Apparently, the mere abrogation of these rights is insufficient to trigger humanitarian intervention. Rather, intervention only occurs when "a country slides into anarchy" and is unable to protect the lives, security, and well being of its people.

Now, the first thing to notice here is the ambiguity of "anarchy." If anarchy is equivalent to a Hobbesian state of nature, then humanitarian intervention would seek to repair evils of omission. If there is no government, then the inhabitants of a specific territory are just being given the protection of civil society by the intervening power. Such an act seems morally uncontroversial, but where are such examples to be found?

On the other hand, actual cases mentioned in the report (Somalia and Liberia) involve not so much anarchy as governments oppressing their own people. Here, we have not so much a state of nature as a civil war. In these cases, it is not easy to distill the essence of the humanitarian from the political. It is perhaps this abstraction of man, or the human, from the polis that


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renders problematical and controversial this formulation of humanitarian intervention. This
returns us to the starting point of our reflections: There is indeed a common human nature
ordained toward the basic human goods. But human beings are always found realizing these
goods within some polis. This polis is not some sort of add-on to their humanity (for
community itself is one of the basic human goods), but is the form through which the
fundamental questions of life are articulated. It is, therefore, necessary to delineate more
precisely the idea of the humanitarian. The crucial question is this: Can the moral imperative
to protect human rights and life be separated from the political context in which these rights
are to be exercised? To put this another way: Having once breached the barrier of non-
intervention in the cause of human rights, may we stop short of full political guarantees of
these rights?

The most perceptive critic of theories of humanitarian intervention is Hadley Arkes. In First
Things, Arkes begins by analyzing the antiwar opposition to American intervention in
Vietnam. The wrongfulness of the war in Vietnam, it was argued, turned on the right of the
people of that country to self-determination. What was important was that they be permitted to
struggle and to determine their own fate even if the result turned out not to be a democratic
regime. The United States had no right to “impose” upon the Vietnamese a regime of
representative democracy. This is the basis, as we have seen, of Michael Walzer’s objection to
the U.S. presence in Vietnam. The criterion for intervention in a situation of civil war is the
test of self-help: Can the government we propose to aid command the loyalty of its people?
“A government that receives economic and technical aid, military supply, strategic and tactical
advice, and is still unable to reduce its subjects to obedience, is clearly an illegitimate
government . . . The Saigon regime was so much an American creature that the U.S.
government’s claim to be committed to it and obligated to ensure its survival is hard to
understand.”

But as Arkes points out, these premises of Walzer have no moral significance: “It is entirely
possible that elected governments with the support of their population may still not be a

match, in certain instances, for terrorist groups that are disciplined and unconstrained by tender sentiments. Certain populations may also be demoralized or lose their nerve more easily than others when they are faced with systematic terror, and they may be more inclined to buy peace by accepting an accommodation, even with antidemocratic forces. But it should be apparent at the same time that nothing in this catalogue of weakness would affect in any way the moral claim of an elected government to survive that terrorism. And in that event, as I think I have shown, the canons of moral reasoning would explain quite easily why a third party would be justified in going to the rescue and supplying the strength that the endangered government cannot summon by itself. Against the necessary force of these moral considerations, the doctrine of nonintervention must be reduced to a formula without moral substance.”

For Walzer (as for the peace movement), the proper working out of self-determination precludes the type of assistance provided by the United States to the government of South Vietnam on the grounds that this government had failed the test of self-help, even when it was clear that the denial of such help would certainly subject the people of South Vietnam to massive suppression of their rights. In support of this point, Arkes notes that in the spring of 1977, within two years of the fall of Saigon, an “Appeal to the Government of Vietnam” was signed by Joan Baez, Staughton Lynd, Aryeh Neier, and many other activists in the antiwar movement. The appeal charged that the new government of Vietnam had imposed upon the people of South Vietnam a despotism involving “grievous and systematic violations of human rights by your government.” Arkes argues that by resting its appeal on the notion of universal human rights, the antiwar movement necessarily undermines its previous argument for nonintervention. For if there is a moral imperative to protect human rights, how can we deny those same people the political means to sustain their rights in the form of political institutions?

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In other words, how could one insist on a vast body of legal rights for human beings without insisting at the same time on the creation of "a government of law?" And how could one insist on the institutions of a legal order without recognizing that the same premises which enjoin government by law also enjoin government by consent and a regime of free elections? 350

Hence, if a people are being oppressed, their right to relief surely does not depend upon whether they possess the strength or the wit to defend their own interests. To abandon them to tyranny on those grounds (albeit dressed up in the principles of self-determination and nonintervention) is simply to fail to take human rights seriously; to substitute prudence for morality.

And yet the activists might not have been deluded in that way. They might have simply thought it possible that the "human rights" they esteemed could indeed be detached from the structure of constitutional government. But it should be evident that if they had understood the connection between human rights and constitutional government, they would have understood from the beginning the principles that were engaged in the war in Vietnam. If they understood why it was proper for themselves in 1977 to speak across the ocean to another culture and expect the government of Vietnam to honor certain requirements of justice, then they would have understood why it was legitimate for the United States in the 1960s to weigh the prospect of a totalitarian regime in South Vietnam and find it to be quite as undesirable in principle in Asia as it was in America. And if there were grounds on which the United States could indeed judge what was better or worse in principle for the people of another country, then the so-called principle of nonintervention would be exposed for what it has ever been: a rule of prudence in international affairs, but hardly a proposition that bears the moral substance of a genuine principle. 351

If the principle on nonintervention lacks moral substance, then it is impossible to frame a moral argument for the protection of human life and rights that, in principle, may be detached from political reform. I believe this argument (which is discussed in Chapter 6), to be sound and to thus have clear implications for theories of humanitarian intervention. In light of this, it

350 Ibid, 263
351 Ibid, 264.
appears that humanitarian intervention represents a genuine effort to enshrine the protection of human rights in international law while retaining the principle of sovereignty or nonintervention in a fairly strong form. The ambiguities and lack of clear criteria for such intervention reflect this inherent conflict, a conflict that is papered over by attempting to isolate human rights from a political and historical context.

It may be no surprise that the same principle would stand behind the argument, often made today, that the United States is obliged to go to the rescue of the hungry of the world. Ironically, the people who make this argument are willing to contemplate an intervention in the politics of another country if that were necessary to the humanitarian mission of bringing food to the starving. Without such awareness, the spokesmen for this persuasion have themselves absorbed Hobbesian premises: they assume that the preservation of life is a purpose which must override all others and transcend political differences. Paradoxically then, they would blind themselves to the question of whether the lives they would save are imprisoned, in effect, in regimes that are despotic and murderous, and whether the aid they would render would actually work to strengthen those regimes. The question, in that event, is whether the principle that enjoins an obligation to rescue would entail a commitment to do far more than preserve the lives of the victims. Might we also not be obliged to deliver people, where we can, from regimes of oppression, and establish the kinds of government that are more fitting by nature for human beings. 352

We are now in a position to understand the essential lack of coherence as exemplified in, for example, the Wilton Park Report. For it is only by abstracting from the totality of man-in-community the value of life and rights and construing them as a separate “humanitarian” category that it is possible to sustain a proposal to intervene while, at the same time, strictly avoiding political involvement.

**Humanitarian Intervention: A First Step**

As examined in Chapter 9, a conclusive moral assessment of humanitarian intervention is problematic due to the continuing evolution of the practice. Clearly, there is a shift taking

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352 Ibid, 287.
place in international law and in the practice of nations regarding this kind of intervention. Whether public opinion has kept up with these developments is less clear. However, at some point, the unresolved tensions inherent in humanitarian intervention will have to be faced. There appears to have emerged two formulations of humanitarian intervention. The first is an unrestricted form, wherein all institutions of civil order have broken down, anarchy reigns, and the inhabitants suffer loss of rights and life due to the absence of civil society. In cases such as these, there seems little doubt that intervention that has as its goal the restoration of civil order could be anything but morally required. There would be no point whatever in rescuing people from starvation and disease simply to abandon them to a state of nature or to the form of government that led them into anarchy in the first place. Of course, immense practical difficulties may limit what anyone may accomplish but, in principle, something that calls itself humanitarian intervention must at the least presuppose the right to endow such people with representative government. There must be no double-talk or diplomatic “waffling” on this matter, as appears in Article 7 of the Wilton Park Report, which speaks of the need to produce “... political harmonization of the country without taking sides in the political conflict.” Humanitarian intervention backed by such vagueness will likely produce inconsequential results. In any event, where are there actual instances of populations with a “total lack of governmental institutions?” Certainly, none of the current list of candidates for humanitarian intervention fits this description. Somalia, Bosnia, Haiti, and Rwanda all fall under a second category of humanitarian intervention, the restricted. In these cases, there are active political units competing for control with territory and institutions of government or, as in the case of Haiti, there is an oppressive regime in power bringing death and destruction upon its people. In this sort of case, it seems clear that exhortations to follow “a strictly neutral approach” vis-a-vis the political regime makes little moral, prudential, or tactical sense. Here again, it would be morally retrograde to bring someone back from the brink of death only to resubmit him to the political regime whose ineptness or malice consigned him to starvation in the first place. For unless one adopts the extreme Hobbesian position that physical survival is the supreme, overriding human good, there must be a link between the humanitarian impulse to save lives and the further provision of a political regime that will safeguard life and rights.
Humanitarian intervention is, thus, a first step in the right direction insofar as it recognizes that the classical principles of nonintervention and absolute sovereignty must give way on those occasions when, in the words of classical just-war theory, "an in-justice goes uncorrected in another place." The next step should be the logical unfolding of an expanded theory of humanitarian intervention, which will mandate political reform where necessary and practically possible as morally inseparable from the duty of charity. Without such a commitment, efforts to help starving and oppressed peoples will be operationally self-stultifying and morally incoherent.

In Conclusion

In conclusion, this thesis has examined many moral philosophical arguments and theories that could lead to a prevention of war. In practical terms, these arguments can only be framed in the context of irreconcilable impediments to this objective. Like the crisis in Rwanda, as discussed in Chapter 11, the need for a response mechanism and the consequences of not looking for solutions are guaranteeing the recurrence of other humanitarian catastrophes now and into the future, including the current crisis in East Timor. It behooves us to take the horrible lessons of the Rwandan debacle and prevent future genocide by formalizing a pragmatic and cohesive multi-disciplinary prevention capability. The killings in Rwanda could have been prevented if there had been the international will to accept the costs of doing so even after the politically difficult losses of peacekeeping in Somalia and the ad hoc confusion in Rwanda. We need to reform our processes to achieve the aim of assisting humanity, as opposed to preserving our processes at the expense of humanity. The coalition of like-minded free nations, with well-developed doctrines respecting human rights, should form the nucleus of a rapid reaction capability for the United Nations to bolster its ability to
keep the peace. The looming threat of overwhelming international retribution is still required to keep in check the violent impulses of hate-filled elements. The international community must be prepared to come to the aid of humanity in a swift yet effective manner. *What remains lacking, what is absent, is the moral will to implement such solutions. We must all strive toward this goal or continue to repress the collective guilt and wash our hands that have been stained with the blood of so many innocent victims of power-hungry and ruthless extremists.*
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